



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 15.11.2025  
Judgment pronounced on: 27.11.2025

+ W.P.(CRL) 1695/2018, CRL.M.A.14418/2024 & CRL.M.A. 9480/2025

ANU DUGGAL

..... Petitioner

versus

STATE & ORS

..... Respondents

**Advocates who appeared in this case:**

For the Petitioner : Mr. Siddharth Aggarwal, Senior Advocate alongwith Mr. Nitin Mehta, Ms. Sowjanya Shankaran, Mr. Siddharth Satija, Mr. Arpit Rawat, Mr. Chirag Singh, Ms. Anuka Bachawat, Mr. Chirag Singh, Mr. Akash Sachan and Ms. Yukta, Advocates.

For the Respondents : Mr. Amol Sinha, ASC (Crl.) alongwith Mr. Kshitiz Garg, Mr. Ashvini Kumar, Mr. Manan Wadhwa and Mr. Nitish Dhawan, Advocates for the State/R-1.

Insp. Gulshan Yadav, Crime Branch, Insp. Adith Lily, Insp. Ghanshyam, Insp. Kuldeep Singh and Dr. Jagjeet Singh, SSO/CFD, FSL, GNCTD, Rohini, Delhi.

Ms. Anubha Bhardwaj, SPP alongwith Ms. Muskan Narang and Mr. Vijay Misra, Advocates for CBI.



**CORAM:**  
**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**J U D G M E N T**

**TUSHAR RAO GEDELA, J.**

1. Present writ petition has been filed under Article 226 of the Constitution of India, 1950, seeking transfer of investigation in F.I.R. No.45/2018 dated 22.02.2018 registered under Section 302, Indian Penal Code, 1860, from Delhi Police to respondent no.4/Central Bureau of Investigation (CBI) for conducting a fresh/*de novo* investigation.

2. Petitioner is the mother of Mr. Arnav Duggal, a 23 year old hotel management graduate working as Manager, ITC Grand Bharat at the time, who died under mysterious and suspicious circumstances on 13.06.2017, at Flat No.441, Shakuntalam Apartments, Sector 10, Dwarka, Delhi i.e. the residential house of Ms. Megha Tiwary, daughter of Mr. R.K. Tiwary.

3. For the purposes of ease and convenience, the names and relationship etc. of the persons involved in this case are described in the following table:-

Name	Abbreviation	Relationship
Megha Tiwary	MT	Alleged to be in relationship with the deceased
Ranjit Kr. Tiwary	RT	Father of MT
Qismat Zaidi	QZ	Friend of MT
Harneet Kaur	HK	Friend of MT
Manisha Meena	MM	Friend of MT



Ramesh Yadav @ Sunny Chaudhary	SC	Friend of the deceased
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4. The version of the petitioner as stated in the writ petition is that the deceased and MT were in a relationship for atleast 2-3 years which continued till the fateful day of his death. In the months preceding the alleged murder of the deceased, they visited several places as well as booked hotel rooms to stay together.

5. The admitted facts reveal that on 11.06.2017, the deceased and MT stayed together during the day time in Hotel Radisson Blu, Dwarka. Through the night of 12.06.2017, the deceased and MT were partying together at various places in Delhi NCR alongwith their friends namely SC, QZ and HK. After dropping the others, on the morning of 13.06.2017, the deceased alongwith MT had visited Hotel Radisson Blu, Dwarka, however, they decided to go to MT's flat. At about 08:00 AM, on 13.06.2017, the deceased and MT reached Shakuntalam Apartments, Dwarka. It is the allegation of the petitioner that at the said flat, Mr. Arnav Duggal was murdered and his dead body was found. The PCR was informed by the security staff of the Shakuntalam Apartments in the evening at about 05:25 PM and the police arrived at the spot immediately.

6. Since the morning of 13.06.2017, the petitioner and her husband were continuously trying to contact the deceased but there was no response. At about 06:00 PM, Mr. Nand Kishore, ASI Dwarka, without informing about the death of their son, asked the petitioner to come to Shakuntalam Apartments. The petitioner and her husband reached at the spot and saw the body of the deceased wrapped in a cover being taken in a hearse van. When they entered the flat of



MT, the police officials present there informed that their son had committed suicide by hanging from the ceiling fan and there was nothing to investigate. The police officials also informed that before their arrival, MT had cut the ligature cloth, brought the hanging body down and when the police reached at the spot, the body of the deceased was found on the floor. It is the case of the petitioner that though the police officials present there informed that their son had committed suicide, they found the room to be dressed up to make a case of suicide and police officials unwilling to further investigate.

7. On 14.06.2017, a complaint was filed by the petitioner before the DCP, South West and SHO, Dwarka Police Station. On 17.06.2017, the post mortem of the deceased was conducted. Thereafter, the investigation was transferred to the Crime Branch in August, 2017 however, the inquiry continued on the theory of suicide and no FIR was registered. The petitioner had to run from pillar to post and file 6 applications before the senior police officials yet no FIR was registered. Finally, the petitioner was compelled to file a petition bearing CC No.25233/2017 under Section 156(3), Cr.P.C.,1973 before the Court of learned Chief Metropolitan Magistrate, Dwarka. The learned CMM, after hearing the parties, directed the police to file a Status Report.

8. In the meanwhile, on 11.02.2018, the petitioner found an envelope at the entrance gate of her house which contained photographs of the body of the deceased, which were placed on record before the learned CMM. After perusing the entire record including the Status Report, complaint, photographs etc., the learned CMM was satisfied that a cognizable offence was made out and accordingly, *vide* order dated 17.02.2018, registration of an FIR was directed.



Accordingly, on 22.02.2018, FIR No.45/2018 came to be registered under Section 302, IPC.

9. Subsequently, various orders were passed by the learned CMM making serious observations against the manner of the investigation being conducted by the police officials. In the order dated 17.02.2018, learned CMM had observed that though no police official saw the deceased hanging from the fan, the police seems to have blindly accepted the version of MT. It was also noted that the polygraph test of MT appears to have been conducted in a rudimentary manner, seemingly as a formality. It was observed that absence of crucial photographs from the police file shows that the probe is not being conducted in an impartial manner. Further, by the order dated 28.03.2018, learned CMM directed the IO to consider all the discrepancies pointed out and conduct the investigation in a fair and impartial manner without any preconceived notions. On 10.04.2018, it was observed by the learned CMM that the application filed by MT seeking anticipatory bail was withdrawn on the basis of assurance given by the IO however, the complainant was not informed about filing of such application depriving her of an opportunity to be heard. Learned CMM had also directed the DCP to monitor the probe in the present case.

10. Thereafter, on 28.04.2018, a status report was filed by Inspector Kuldeep Singh, Crime Branch, Delhi before the learned CMM stating that a Special Investigation Team (SIT) has been constituted to conduct investigation in the present case under the overall supervision of Sh. Bhisham Singh, DCP/Crime (Cyber & FICN). It is the case of the petitioner that inspite of several observations made by the learned CMM and the overwhelming circumstances from the day of the incident till date pointing towards the involvement and

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influence of MT and her father, and despite the case being transferred from local police to Crime Branch to the SIT, the narrative and the pattern of the investigation remained on the same preconceived notion of suicide. It is stated that the probe/investigation in this case has been unfair, tainted, *mala fide* and smacks of foul play thus, necessitating invocation of writ jurisdiction of this Court seeking transfer of investigation to CBI.

11. To have a balanced view of the case, it is also relevant to place on record the version of the prosecution. It is pertinent to bear in mind that the police authorities have filed a Closure Report and *vide* order dated 09.05.2024, this Court had directed that if any final report is filed by the IO, the learned CMM shall keep the same in abeyance till further orders. The version of the prosecution, as per its Closure Report dated 29.08.2024 is as under:-

*“It is submitted that on 13.06.2017, a PCR call was made from 011-42760314 and the same was received at PP Sector-10, PS Dwarka (South) vide DD No. 13 at 5:25 PM that a boy had committed suicide at Flat No. 441, Shakuntalam Apartment, Sector- 10, Dwarka, New Delhi. The SHO, ACP concerned and police staff of PS-Dwarka South reached at the spot, where dead body of a boy was found lying on the floor near the bed in a room. He was identified as Arnav Duggal S/o Sh. Alok Duggal R/o H. No. 7/28, West Patel Nagar, New Delhi, Age 23 Years. A piece of cloth was found tied around the neck of deceased and second portion of the cloth was found lying on the bed. From the spot enquiry, it was found that the said flat belonged to Mr. Ranjeet Kumar Tiwary. The deceased was friend of Ms. Megha Tiwary (used to work in ITC Maurya those days).*

*After night duty on the intervening night of 12/ 13-06-17, she along with her friends Qismat, Harneet, Arnav (the deceased) and Arnav’s friend Sunny had gone out for the night. Ms. Megha revealed that she was in a relationship with Arnav since the last 2 years, however, since the last one year she had started maintaining some distance from him due to his misbehavior & possessiveness. Arnav was not happy with this and he wanted her back in his life. After the night out with friends, she came back to her house in the morning of 13.06.17. Arnav had come to drop her. After dropping her outside her house he drove his car outside the society and parked his car outside. He entered the society in the name*



*of Atul. He returned and came to her flat. He insisted on staying with her and tried to convince her to come back into his life. She refused and finding no option, bolted herself in another room of the flat leaving Arnav in the drawing room. She had switched off her phone and slept. She woke up at around 4:30 PM when her landline phone rang. She came out to attend the phone and found Arnav's body on the floor in kneeling position with hands on the bed. A cloth was tied around his neck and looped over the ceiling fan. She checked and found him dead. She informed her father & friends and also cut the clothes/ligature material with a scissor. Her father informed the Supervisor and the Police was also informed by the society staff."*

### **CONTENTIONS OF THE PETITIONER:-**

12. Adumbrating on the backdrop as narrated above in the facts put forth by the petitioner, Mr. Siddharth Aggarwal, learned senior counsel appearing for the petitioner submitted that the prosecution committed the greatest fallacy in presuming that the occurrence on 13.06.2017 was a pure case of suicide, having no homicidal intent behind it. He stated that this assumption, which forms the substratum of the investigations commenced and concluded by the prosecution, has manifestly resulted in miscarriage of justice. He urged that the said assumption of suicide emanated from the version given by MT who herself was the only person admittedly present in the flat when the deceased allegedly committed suicide. He contended that admittedly, none of the police authorities had seen the body of the deceased hanging from the ceiling fan and only saw the body after the ligature, as alleged, was cut off by means of a knife or a scissor by MT. Other than that, there is no credible knowledge, information or even evidence collected by the investigating authorities to reach this assumption of suicide from the very inception of the investigations. He vehemently attacked the investigations conducted by the local police based on the erroneous assumption of the deceased having committed suicide. According to him, it is unknown as to





how and on what basis the theory of suicide was made the foundation on which the investigations commenced and unfortunately, concluded. That said, learned senior counsel sought to point out grave and serious lacunae and pitfalls in the investigations conducted not only by the IO of the local police but also by the SIT, who unfortunately parroted and reiterated the investigations and the conclusions reached by the IO. The point wise submissions are noted hereunder.

**Background:-**

13. Learned senior counsel stated that the deceased and MT knew each other for almost three years before the date of incident and admittedly, were in a relationship. He stated that the petitioner has placed on record a number of documents to indicate that both, the deceased as well as MT had been in close relationship and travelled to many cities like Jaipur, Rishikesh, Roorkee etc. together. In fact as recent as between 01.04.2017 to 08.04.2017, MT applied for leave during which period, both had visited Rishikesh and spent quality time together. He submitted that on 11.06.2017 i.e. two days before the date of unfortunate incident, the deceased and MT spent the day (from 7:40 am till 4:30 pm) at Hotel Radisson Blu, Dwarka, New Delhi. Not only that, throughout the night of 12.06.2017, the deceased alongwith his friend SC, and MT with two others namely, QZ and HK were partying at various places in Delhi NCR region which, according to him, also included procurement and consumption of narcotics. He submitted that as per the statements of the friends of both, the deceased and MT, after dropping all of them at various times in the intervening night of 12.06.2017 and 13.06.2017, the deceased and MT reached Hotel Radisson Blu, Dwarka to stay together. According to him, and as appears from the statements of the witnesses from the hotel, on account of non-negotiation in





the rates of the room, both deceased and MT decided to go to the house of MT at Shakuntalam Apartments, Dwarka. He stated that the aforesaid facts have been collated from the various statements of the witnesses and are not version of the petitioner.

From the statements of witnesses including the security guard of the Shakuntalam Apartments, both the deceased and MT entered the apartment around 8:00 AM whereafter, the deceased came out of the said apartment after dropping MT and parked his car outside. It is the statement of the security guard that the deceased re-entered the apartment under the name “Atul”. At this stage, learned senior counsel submitted that the presence of the deceased as well as MT in her house i.e., Flat no.441, Shakuntalam Apartments is undisputed. Rather, it is an admitted fact.

Learned senior counsel submitted that thereafter, as to what transpired between the deceased and MT in the said flat leading to the incident of alleged suicide is unknown. Subsequently, the alleged facts, from the time the local police is alleged to have been informed of the purported suicide at 05:25 PM by the security guard of the apartment, are the versions of the prosecution as also MT and other witnesses, which are seriously in doubt.

### **Defects and Discrepancies in the Investigation:-**

14. Learned senior counsel handed over a written note of crucial lacunae in the investigations requiring transfer to CBI and submissions relevant for such consideration. This Court has perused the note which was read over by Mr. Aggarwal, learned senior counsel and is of the considered opinion that to underscore the emphasis sought to be projected, it may be more appropriate to re-present the same as under :-



### **I. Discrepancies in MT's version**

a) Investigating agency seeks to accept and act on various factual assertions of MT, which are demonstrably false. MT claims that the deceased barged into her residence uninvited on the morning of 13.06.2017, and that he was banging on her door for at least 1-1:30 hours before she allowed him in (Statement of MT dated 14.06.2017). However, CCTV footage of Shakuntalam Apartments shows that the deceased and MT entered the apartment complex shortly before 8:00 AM, parked the car and MT alighted from it. Then deceased took the car outside the gate of the society and parked it and re-entered. The deceased and MT contacted each other more than 10 times within a span of 20 minutes between 07:55 AM and 08:16 AM, which is demonstrated below:-

Date	Time	From	To	Duration (in seconds)
13.06.2017	07:55am	Arnav	Megha	0
	07:56am-07:58am (4 missed calls)	Arnav	Megha	0
	08:00am (SMS)	Arnav	Megha	Col
	08:02am	Megha	Arnav	558
	08:12am	Megha	Arnav	0
	08:13am	Megha	Arnav	11
	08:14am	Megha	Arnav	21
	08:15am	Arnav	Megha	18
	08:16am	Arnav	Megha	0
	08:16am	Megha SMS	Arnav	Missed call

CCTV footage also clearly shows that between 08:05 AM and 08:06 AM, the deceased was bounding up the stairs to MT's apartment with a wine bottle



in hand (Statement of MT dated 04.12.2018). It is clear from the above that MT's claim that the deceased was harassing her is demonstrably false.

b) MT claimed that the deceased was her ex-boyfriend and she has had no contact with him for the last one year and that the deceased was jealous and angry because of this and for that reason, committed suicide. MT further claimed that for the last one year (prior to the incident), she had broken off the relationship and was keeping her distance (Statement of 13/14.06.2017). In the Revision Petition filed by MT against the order directing registration of FIR dated 17.02.2018, she claimed that she discontinued her relationship with the deceased 4 months prior to the date of incident. However, MT and deceased voluntarily rented a hotel room for the whole day on 11.06.2017, and again attempted to do so on the morning of 13.06.2017 [Letter of Mohd. Shoeb (Staff of Hotel Radisson Blu, Dwarka) dated 29.08.2017]. They had also travelled to Jaipur, Rourkee, Kasauli, Rishikesh etc., few months before the incident (Photos and documents at Page nos.103-115 of the WP). In fact, they called and messaged each other over 136 times between 11.06.2017 and 13.06.2017, and MT called the deceased five times between 8:02 AM-8:16 AM on 13.06.2017. Thus, MT's claim that she was trying to distance herself from the deceased is patently false.

c) MT claimed that she was forced to go to Hotel Radisson Blu, Dwarka on 11.06.2017 and 13.06.2017; fought with deceased on the morning of 13.06.2017 and went to sleep immediately after the deceased entered her apartment. However, MT's statements are inconsistent. In her first statement, she had not mentioned anything about the hotel visit on 13.06.2017. Moreover, in the statement of Pavitra Kumar, employee of Hotel Radisson



Blu, Dwarka who was present on 11.06.2017, he claimed that both the deceased and MT “seemed happy”. The room was booked on “day basis” under the name of MT and the Aadhaar Card of MT was provided, and the deceased and MT stayed in Room No.720 from 7:40 AM till 4:30 PM on 11.06.2017.

Throughout the night of 12.06.2017 and early morning of 13.06.2017, MT, deceased and their friends partied at various places in Sainik Farms, Noida etc. Thus, the above clearly shows that MT’s claim that she was forced to spend the day of 11.06.2017 and the night of 12.06.2017 with the deceased, is demonstrably false.

## **II. Discrepancies in the time of discovery of the body**

d) There are significant discrepancies in the time of discovery of body of the deceased and there is a significant delay in reporting by MT to the authorities, of the same. Both these aspects have been completely overlooked by the investigating agency. MT first stated that on 13.06.2017, she discovered the body of the deceased at 4:30 PM when the landline phone rang. However, SI Nand Kishore in his Return DD Entry No.03, *inter alia*, mentioned that MT discovered the deceased’s body at 12:00 PM.

e) Pursuant to an application filed by the petitioner before the learned CMM, seeking directions to the SIT to investigate the time of discovery of the body and delay in reporting the same, the learned CMM passed an order dated 12.10.2022 observing that “*there are glaring discrepancies in the time of death given by Megha Tiwari and her father, in the various reports and statements recorded of her and the father by different police officials, which are obvious to this court, but for some reason, the police officials are*



*determined to look in the opposite direction... ”. Thus, further investigation on this aspect was ordered. Vide Status Report filed on 16.09.2022 and 14.12.2022 before the learned CMM, the investigating authorities claimed that they have ‘clarified’ from ASI Nand Kishore on the time of discovery of the body mentioned by him in the Return DD Entry. It was stated that since he did not carry out the investigation, his statement has “no evidentiary value”.*

f) Further, MT in her statement dated 30.08.2017 mentioned that she discovered the body at 4-4:30 PM. However, the Status Reports dated 21.12.2017, 30.07.2018 & 13.05.2019 claims that she discovered the deceased’s body at 3:30 PM (Pg.124 of the WP and Status Report filed on 13.05.2019). Status Report dated 28.04.2017 claims that MT discovered the body at/around 4:00 PM. (Pg.242 of WP). Based on this, it was submitted by the petitioner that change of version from 12 noon to 04:00-04:30 PM is itself highly suspicious.

Even assuming the discovery time as 04:00 PM, MT took 1.5 hours to inform the police and MT admittedly tampered with the condition of the body, since she cut the ligature 40 mins prior to the PCR call. Moreover, the call made to PCR was not made by her but by the caretaker of the society on the instructions of the Management Committee.

g) MT has made various discrepant statements about the position in which she found the body of the deceased (from hanging freely to being already on the bed in a kneeling position) and the investigating agency has accepted her version without question. Post Mortem Report which was based on the Inquest Report, concluded that the deceased was found in a hanging condition and the ligature was cut and the deceased was brought down by MT. PCR call also



stated the same. However, subsequent statements of MT are that deceased's elbows were on the bed and the rest of his body was on the floor. (Statements of MT dated 13.06.2017 and 30.08.2017). This is also now the version being accepted by the prosecution in the Status Report submitted to this Court. The investigating authorities have been unwilling to even consider any version contrary to the interests of MT and at all stages, under different officers, have acted in a manner that sabotages the fair investigative process.

### III. Non-registration of FIR by investigating authorities

h) It is pertinent to note that the investigating authorities did not register any FIR due to which the petitioner was constrained to file an application under Section 156(3), Cr.P.C. r/w Section 200, Cr.P.C before the learned CMM, Dwarka Courts. By a detailed order dated 17.02.2018, the learned CMM directed the registration of FIR and transferred the investigation from Insp. Sunil Jain to another and sought explanation from Insp. Sunil Jain and the Commissioner of Police on the lapses in investigation. Learned CMM noted various disturbing facts in the conduct of investigation (including that the police was acting with a predetermined mind to declare the case as suicide).

i) The learned CMM, *inter alia*, observed that, (i) there was discrepancy in the narrative regarding the fan; (ii) the photographs were evidently being kept out of the police file; (iii) MT was being evasive and untruthful; (iv) presence of ligature mark at the back of the neck is normally present in the cases of strangulation; (v) there seems to be a predetermined mind to declare this a suicide and even the polygraph was conducted in a rudimentary manner; (vi) the photographs in which the injuries were seen and brought on record by the petitioners do not appear in the police file. Thereafter, the DCP had filed a



Status Report stating that the lapses, if any, in the investigation done so far could only be pointed out after completion of investigation of the case. Thus, from the very beginning, the object of the officers of the Crime Branch is to shield their own and all the investigation has been being conducted with a view to perpetuate the initial investigation.

#### IV. Discrepancies in the photographs of the crime scene

j) Crime scene investigator claimed to have taken only 10 photographs which were made part of the police file, but after nearly 1 year and 9 months. On 13.06.2017, HC Banwari Lal, crime team photographer took photos of the crime scene. There is neither any record of how many pictures were taken by him in any record of the investigating agency, nor any document to show when, where and how many photos were handed over to IO. Initially, Crime Branch said it received 10 photos taken by Banwari Lal (Pg. 151-158 of WP). However, no photo of the fan from which deceased was allegedly hanging was taken.

k) On 10.02.2018, the petitioner anonymously received some photos (Pg. 141-150 of WP) which were not the same as the photographs available on the police file according to the Crime Branch. These were brought into investigations *vide* order dated 17.02.2018 by the learned CMM. Until this date, Crime Branch feigned ignorance about these photographs. The photos received by the petitioner showed a lot of dust and cobwebs on the fan. The Crime Scene Report does not make a mention of this. In this regard, it is pertinent to note the observations of learned CMM in his order dated 28.04.2018 (Pg. 230-231 of WP).





l) Petitioner moved applications on 22.12.2018 and 12.02.2019 to bring negatives of 21 photos taken by the crime team on record. Learned CMM, *vide* orders on these dates, directed IO to produce negatives of the same. Curiously, in compliance with the orders, IO Richpal Singh brought the same 10 photos received by the petitioner anonymously claiming they were part of the police file. No explanation was offered as to why the investigating authorities earlier feigned ignorance pertaining to the same. Further, it is not clear who took the first 10 photos which were part of the police file and there are no negatives of the same. The above clearly demonstrates glaring omissions on part of the investigating authorities with regard to the material evidence i.e., photographs of the crime scene.

#### **V. Non-seizure of the fan & discrepancies in the statement of RT**

m) The ceiling fan from which the deceased allegedly committed suicide by hanging was neither seized, nor properly examined by the Crime Scene Team and was allowed to be disposed off by the father of MT. Moreover, photographs of the fan clearly show dust and cobwebs on it. Crime Scene Report makes no observation on this and does not even refer to the fan being brought down. The said Report claims that grey powder was used for lifting fingerprints from the fan, and only because of this, the FSL found dust disturbed on the top side of the fan but undisturbed on the lower side.

n) RT in his statement dated 13.06.2017 was silent on the fan. However, on 30.08.2017, he claimed that the fan blades were bent and hence, sold to scrap dealer. However, it is pertinent to note that there was no such finding in Crime Scene Report or in the statements of others at the spot and even the photographs belie this statement. In fact, Crime Scene Report was available



only on 10.11.2017 even though Crime Scene Team came to the spot on 15.06.2017. CSR clearly states that the fan blades were intact (Pg. 35 of the reply dated 28.08.2018 filed in WP) (Also see statement of MM dated 17.06.2017 and 14.06.2017). Even the learned CMM's order dated 17.02.2018 and 23.03.2018 notes the discrepancy with respect to the fan. Moreover, RT in his statement recorded by the IO in the Case Diary No.13 dated 03.04.2018, improved his prior statement by stating that he removed the fan and kept it on the roof of the building and as it gathered rust, he sold it off after two months. On further questioning, he stated that the blades had no bent when he removed it. Further, MT's Revision Petition bearing No.182/2018 claimed that the fan was removed after taking permission from the police.

#### VI. Anticipatory Bail application of MT

o) Investigating authorities did not oppose the anticipatory bail application of MT, and in fact specifically stated before the Court that her custodial interrogation was not being sought. However, this information was withheld from the learned CMM. The petitioner was not even informed about the said anticipatory bail application of MT by the IO. On 22.03.2018, there was a response by IO resisting the said application of MT, however, by a hand written endorsement of the IO stating that MT was not required to be arrested, the bail application was withdrawn by MT on 22.03.2018. (Pg.205 of WP). In the Status Report dated 28.03.2018 filed before the learned CMM, the fact of anticipatory bail application filed by MT came to the knowledge of the petitioner who brought it to the notice of learned CMM on 10.04.2018. IO, even on 10.04.2018, stated that he did not know the reason why MT withdrew the said bail application. (Pg.191, 214, 225 of WP)



## VII. Tampering of mobile phones after seizure

p) Two mobile phones of deceased (Samsung and Xaomi), and one phone of MT (Motorola) were not satisfactorily seized and MT, who was the only person present during death of the deceased, was allowed access to her phone until atleast 10:30 PM on 13.06.2017. MT was locked in the flat/scene of crime until such time, citing “security reasons” and CDR records confirm the same (Statement of RT and Pg. 12 of Status Report dated 13.05.2019; CDR records). Further, shockingly, the police officials accessed the phones post seizure and altered material therein, despite allegedly sealing the phones after seizure. Even the manner of recording seizure is unsatisfactory as no IMEI of MI phone of deceased was noted. Moreover, there was no attempt by the investigating agency to get clone/mirror image of the phones, until the petitioner filed an application on 16.01.2019 before the learned CMM (Orders dated 22.12.2018 and 02.02.2019 of the learned CMM directing to obtain clone copies of the phones).

q) MT was allowed to retain possession of her phone at least until 10:30-10:45PM (i.e. 4 hours after arrival of police) when she went to PS, though the seizure memo of MT’s phone states that it was seized at the spot. Phones were sent to the FSL for analysis only on 15.11.2017, and the report was received on 01.03.2019 and thereafter, filed before the learned CMM on 08.03.2019. MI phone of the deceased couldn't be examined by the FSL (Orders dated 24.05.2019, 21.08.2019 and 21.12.2019). There is clear evidence of tampering and deletion of texts, calls, contacts etc. post seizure. (Note: Column in the Extraction Report titled Deleted states 'Yes' and marked in red).



r) Prosecution claims that the phone of MT was seized in switched 'ON' mode, however, the 'Powering Events' in CFSL Clone of MT's phone shows that it was switched 'ON' 22 times after the seizure (FSL Report in the police file). It was also discovered that the phone of MT received calls on 22.06.2017, nine days after the seizure, even though there were no calls between 14.06.2017 and 22.06.2017. The investigating authorities have provided no response in relation to the above. As per the Status Report dated 13.05.2019 filed before this Court, the stand of prosecution is complete denial and no explanation has been tendered for tampering of the phone or why MT was allowed to retain her phone.

s) Additionally, learned counsel for the petitioner, during arguments on 15.11.2025, handed over a photograph to submit that the manipulation and tampering of the seized phone of MT is apparent. In that, by pointing out at the date of creation and deletion of the photograph, which is recorded as 15.06.2017, he contended that once the phone was seized on 13.06.2017, there is no question of any photograph being taken on 15.06.2017; hence manipulation or tampering with the material evidence is established.

### **VIII. Overall conduct of investigation**

t) The conduct of investigation has been severely commented upon in various orders of the learned CMM who was monitoring the investigation. Several abhorrent lapses in the investigation have been noted by the learned CMM. On 25.05.2018, the learned CMM observed that successive investigating officers are taking the same line of investigation as their predecessors, showing exceptional stubbornness and resistance to even the possibility of an alternative view. On 07.07.2018, the learned CMM observed



the lapses by the police in procuring telephone records of the various witnesses/accused persons despite repeated directions of the Court, and the poor manner in which the statements of the friends of the deceased were recorded. It was also noted that the SIT was only answering questions which supported the line of investigation but provided no answers when questioned on the lapses in the same.

u) In the order dismissing the Revision Petition filed by MT, the learned Sessions Judge observed that even though it is claimed that the deceased has committed suicide, it is not disputed that the cause of suicide is not known to anyone. Further, that no case has been made out that the deceased was under depression or having suicidal tendencies, making it more important to find the cause of suicide.

15. Thus, basing the case on the abovementioned discrepancies, Mr. Aggarwal, learned senior counsel for the petitioner prayed that the investigations in the present case be transferred to the CBI.

**CONTENTIONS OF THE RESPONDENT No.1/State:-**

16. Appearing for the respondent no.1/State, Mr. Amol Sinha, learned Additional Standing Counsel (ASC) refutes the allegations and contentions urged on behalf of the petitioner. He submitted that the version put forth by the petitioner is a result of an imagination far from the truth and devoid of any merit on account of lack of evidence, whether oral or documentary. He stated that a telephonic call was received by the PCR on 13.06.2017 at 5:25 PM stating that a boy has committed suicide in Shakuntalam Apartments. He stated that the Managing Committee of the Shakuntalam Apartments made that telephonic call



through its security guard. It is stated that immediately, the police swung into action without wasting any further time. Once the police authorities reached the scene of the incident, proper procedure as prescribed in law was undertaken including initiation of proceedings under Section 174 of the erstwhile Cr.P.C., 1973. Statements of the relevant witnesses including MT, her father – RT, friends of the deceased as well as of MT, the security guard and the concerned office bearers of the Shakuntalam Apartments were also recorded. The body of the deceased was taken into custody and sent to Deen Dayal Upadhyaya Hospital. The phone of the deceased (two in number) as well as that of MT alongwith other material objects, including the ligature, was also seized on the very same day.

17. Learned ASC submitted that as per the version of MT, she allowed the deceased to enter her flat after much persistence on the morning of 13.06.2017. As the deceased was continuously harassing and insisting her to come back into his life, which she refused, she went to the other room, locked herself and slept. She had woken up at around 4:25 PM when the landline phone rang in the other room. She stated that it was then that she saw the deceased hanging from the ceiling fan. It is the case of the prosecution that it was the father of MT who had called up on the landline and upon being informed of the incident, had rushed back from his office at Nehru Place. In the meanwhile, as per the prosecution, the father made a call to the security guard of the Shakuntalam Apartments requesting him to visit the flat, which was refused by the security guard. Learned ASC stated that after consultation with the Managing Committee of the said Apartments, the security guard made a phone call to the PCR at 5:25 PM. It is stated that the PCR reached around 5:30 PM and called the local Police Station



for assistance. According to learned ASC, the diary entry of the PCR reflected that MT discovered the body around 40 minutes back and in the meanwhile, she had cut the ligature cloth and brought the body down. SI Nand Kishore is stated to be the first police official who had reached the scene of incident and had made a note indicating that MT discovered the body at 12:00 PM. Learned ASC stated that this statement was clarified later by SI Nand Kishore by stating that he had wrongly noted the time since he had made the initial note late in the evening of 13.06.2017 only upon recollection, which may have been faulty.

18. Mr. Sinha further stated that the postmortem of the deceased was conducted by All India Institute of Medical Sciences, New Delhi (hereinafter referred to as "AIIMS") on 17.06.2017, on the request of the father of the deceased made to the HOD, DDU Hospital. Accordingly, the postmortem was conducted by AIIMS which was also videographed, and is available in the Court records. He stated that contrary to the allegation that the deceased alongwith MT and others had consumed drugs and other narcotic substances, no such traces of drugs etc. were found during either the postmortem or later on by the FSL in the Viscera Examination Report. Infact, the Post Mortem Report clearly indicated the cause of death as "*Asphyxia as a result of antemortem hanging*" and further noted that, "*Nothing found suggestive of any foul play in postmortem examination. Hanging death are generally suicidal in nature*". Thus, on that basis, he submitted that the ligature mark on the deceased was consistent with the theory of suicide. In view of the above, learned ASC contended that the oral and the medical evidence clearly pointing out unequivocally to the probability of death by suicide, left no room for the police authorities to rule out otherwise and investigate the incident as if it is one of homicide. Thus, according to learned





ASC, the investigations conducted by the local police authorities at the initial stage as also by the SIT of Crime Branch, both being *ad idem* on the theory of suicide, cannot be found fault with. Therefore, the theory of homicide or murder of the deceased put forth by the petitioner is a figment of imagination devoid of any evidence whatsoever, whether oral or medical and thus, the writ petition lacks merits and ought to be dismissed.

19. Delving upon the facts as collated by the prosecution after having examined all the relevant witnesses, learned ASC stated that the version of the prosecution aligns well as is in tune with the facts as discovered during the investigation. He stated that it is undisputed that MT and deceased were colleagues apart from the fact that both were in a relationship for the last 2-3 years before the date of incident. He further submitted that on an analysis of facts as collated from the statement of MT as also the friends of both parties, it was revealed that MT was trying to distance herself away from the deceased from the last many months. He also stated that the statements of the friends also revealed that the deceased was over possessive and obsessive of MT and was not ready to understand that MT did not want to proceed ahead in the relationship. In order to buttress this aspect, he referred to an incident in the month of March, 2017 revealed by the ITC to the SHO regarding a complaint dated 22.03.2017 made at 11:15 PM by MT against the deceased stating that the deceased was harassing her at her place of work. Moving on further, learned ASC submitted that on 11.06.2017, admittedly, a room was booked in Hotel Radisson Blu, Dwarka. He stated that as per the statement of MT in this context, the deceased had forcibly taken away the phone and purse belonging to MT and coerced her to accompany him to Hotel Radisson Blu. MT also stated that both of them had spent the whole



day in the hotel room. It is further stated that MT was in open relationships which was also corroborated by the statements of the friends of MT and the deceased, which was not to the liking of the deceased.

20. Mr. Sinha referred to a number of text messages exchanged between the deceased and MT on 12.06.2017 to substantiate the fact that MT was trying to distance herself away from the deceased and as to how the deceased was unable to let go off MT and was harassing her. The said messages are extracted hereunder:-

Date	Time	From	To	Message
12.06.2017	2:55 pm	Arnav	Megha	<i>Y u wnt 2 blame me 4 thngs I havnt don things that haven't occurd yet 4 things they dnt wnt 2 tak responsibility 4 I am sory but nt wrng I saw it frm my eyes</i>
12.06.2017	03:09 pm	Megha	Arnav	<i>Not now please hath jodd rahi hoon</i>
12.06.2017	03:38 pm	Arnav	Megha	<i>Col me 4 once its imp</i>
12.06.2017	03:45 pm	Arnav	Megha	<i>Can I pls knw what is wrng wid t y r dng this drama agn col me its imp then u wil b at wrk n not talk</i>
12.06.2017	04:00 pm	Arnav	Megha	<i>What r u up 2 megha I need u 2 talk that is d least sinc yesterday I am trying</i>
12.06.2017	04:09 pm	Arnav	Megha	<i>Til d tim u dnt stp lying n jst build stories 4 gossip n 2 get sympathy n attention from every 1. U wil fail at every test/ step of life</i>
12.06.2017	04:15 pm	Arnav	Megha	<i>See agn when u get caught u jst run away</i>



12.06.2017	04:17 pm	Megha	Arnav	<i>F**k off arnav I can't handle it crap and I am not scared off u or anyone in this world even if I am sleeping with somebody I can twll it in open. I don't even want to explain anything to a maniac like you jisko har baat or shaq or bakchodi krni hto h u r absolutely out of my life and I am sorry that I request for a favour from u abse Mar jaungi tujje call nai jaeha bye forever literally forever</i>
12.06.2017	04:22 pm	Arnav	Megha	<i>Bby I lov u bas chup ho ja pls chup ho ja I cnt tak it pls stp this I am dying 2 talk n u r wanting me 2 die</i>
12.06.2017	04:27 pm	Arnav	Megha	<i>Every tim I talk 2 u tell me go away u get me close n den say go die why megha y do u actually hate me so mvch that I deserve to die</i>
12.06.2017	04:40 pm	Arnav	Megha	<i>If u wil only keep fighting wid me how do u think it wil get sorted u want me think abt u only or do seome wrk that wovld mak u smil</i>
12.06.2017	06:48 pm	Arnav	Megha	<i>Col</i>
12.06.2017	09:00 pm	Arnav	Megha	<i>Col now</i>
12.06.2017	11:28 pm	Arnav	Megha	<i>If u feel that I wish the worst for u n hate u I realy fail to understand what has been put in ur head</i>
13.06.2017	01:32 am	Arnav	Megha	<i>Its 3 n u stil wana kil tim as always</i>
13.06.2017	01:36 pm	Arnav	Megha	<i>Then put d blame on me</i>
13.06.2017	08:00 am	Arnav	Megha	<i>Col</i>

21. He stated that as per the statements recorded by the IO of MT and the common friends, the deceased alongwith SC picked up MT and went to the residence of QZ where they picked up QZ and HK from Safdarjung Enclave. He

Signature Not Verified

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By: YASHRAJ

Signing Date: 27.06.2018 16:13:58

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submitted that as per the statement of MT, she requested QZ and HK to accompany her as she was uncomfortable with the deceased. On the basis of the statements recorded of the said friends, it was revealed that all of them had visited various places in Delhi NCR region including a place called “Maggi Point” in Noida and three other places in the intervening night of 12/13.06.2017. As per the statements, the deceased alongwith the aforesaid persons first dropped SC at Malviya Nagar and then QZ and HK at their house in Safdarjung Enclave. He further stated that the deceased and MT thereafter went to Hotel Radisson Blu, Dwarka around 7:15 AM, however, decided to instead go to the residence of MT at Shakuntalam Apartments, where they reached around 8:00 AM on 13.06.2017. Based on the statement of the security guard concerned in the morning shift, the deceased, after dropping MT inside the apartment, came out of the apartment, parked his car outside and re-entered the apartment by entering his name as ‘Atul’ in the Entry Register. He stated that as revealed by the examination of the CCTV footage available of the ground floor of the Apartment Block, where MT resided, the deceased was seen climbing stairs with a bottle of wine and a box of cigarettes as per the version of prosecution, while the petitioner contended that it was a box of cheese and not cigarettes. In the meanwhile, between 8:00 AM and the time when MT permitted the deceased to enter the flat, there were a number of calls made by the deceased which were not answered by MT and around 5-6 calls emanating from MT to deceased, out of which three calls were attended by the deceased. Only at 8:01 AM, a call lasting about 558 Seconds (Approx. 9 Minutes and 17 Seconds) was made by MT to the deceased. Thereafter, according to the statement of MT, as the deceased was continuously banging the door, he was permitted to enter the flat by MT around



10:00 AM. Mr. Sinha stated that thereafter, there was no call made by MT till the body of the deceased was discovered by her around 4:30 PM.

22. Having submitted the aforesaid version as put forth after collation of necessary facts and statements of the witnesses, learned ASC raised the following contentions:-

a) So far as the allegation of the petitioner regarding purported discrepancies in the number of photographs taken or placed in the police file as also the Court file is concerned, learned ASC stated that 8 photographs were taken by SI Ghanshyam of the body of the deceased for reference to the postmortem alone. He stated that 10 photographs on the same date were taken by the Crime Team of the scene of incident including the photo of ceiling fan. Thereafter, 101 photographs of the entire scene of crime were taken by the FSL on 15.06.2017 which also included various photos of the fan. He asserted that all the photographs were on record and duly analyzed. He contended that only 5 photographs were submitted by the petitioner before the Court. In short, his contention is that the allegation is false at the very inception itself inasmuch as the record clearly indicates that all the photographs, relevant or otherwise, were subsequently made available either in the police file or in the court records.

b) So far as the allegation of non-seizure of the ceiling fan and the wine bottle is concerned, learned ASC categorically argued that usually, in the cases where a person commits suicide by hanging from the fan, those are not seized. This is for the reason that the photographs taken by the forensic team as well as the crime team are considered sufficient in the course of investigations as relevant proof before the Court of law. In fact, it is not



disputed by the petitioner that the FSL Team did infact conduct test to collect chance prints from the fan, which was found in the negative. Thus, that reason too propelled the prosecution not to seize the fan. So far as the failure to seize the wine bottle is concerned, he stated that since the same was not found in the room where the body of the deceased was found, it was not considered to be a relevant piece of evidence. Moreover, he stated that the scene of incident was completely locked and sealed ensuring no one could manipulate or tamper with the evidence available inside the flat. He drew support from the Post Mortem Report dated 17.06.2017 as also the Viscera Examination Report dated 29.09.2017 etc. to state that neither any drugs nor psychotropic substances or any poisonous metals etc. were traced in such examination and thus, the non-seizure of the wine bottle would not be fatal to the investigations conducted by the IO at that point of time.

c) So far as the allegation of tampering or manipulation of the mobile phone of MT (seized in switched ON condition), getting switched on and switched off after the seizure (between 13.06.2017 to 23.06.2017) in the *Malkhana* is concerned, learned ASC stated that the same has been clearly answered by Dr. Jagjeet Singh, Senior Scientific Officer, FSL, New Delhi that there are two possibilities under which such incident may occur. One, that possibly it occurred on manual interference and two, the power button may have got stuck in the box where it was kept in a sealed condition leading to the mobile phone getting switched on and switched off on its own. Keeping in view the two divergent and alternative views submitted by the Scientist from FSL, he contended that it may not be proper for this Court to doubt the sanctity and



integrity of the manner in which the seized phone of MT was preserved in the *Malkhana*.

Additionally, learned ASC categorically stated that all the messages etc., which were alleged to have been deleted while the phone was kept sealed in the *Malkhana*, were found to have no crucial or incriminating content. He relied upon the oral explanation tendered by Dr. Jagjeet Singh, the Senior Scientific Officer, FSL that when the phone is switched off, the files perish automatically and thus, are shown as deleted. Apart from this, few program files and cache files also get automatically deleted from the RAM. Based thereon, he contended that not only was the phone seized properly and kept un-tampered in the *Malkhana* but also that whatever data got deleted from the phone was retrieved by the FSL and analyzed by the IO, which had no incriminating content. Further, learned ASC referred to the relevant pages in the Extraction Report to show that a number of calls and telemarketing messages were received on the mobile phone of MT between 13.06.2017 when it was seized and sealed and kept in the *Malkhana*, till 23.06.2017. He stated that none of the calls were received during that period and as such, the allegations made by the petitioner are unfounded.

d) In order to allay the misapprehension of the petitioner that the incident involving the death of the deceased is one of homicide and not suicide, learned ASC drew attention to the Post Mortem Report dated 17.06.2017 generated by the Department of Forensic Medicine and Toxicology, AIIMS. By referring to the relevant portions, he forcefully contended that the reading of the entire Post Mortem Report alongwith the opinion rendered by the Medical Board at the end clearly indicates that the deceased died due to Asphyxia as a result of





antemortem hanging, which cannot be disputed. The fact that no such antemortem injury was found on the body of the deceased also indicates that there was no assault which the deceased suffered. The medical evidence on record clearly demonstrates the case to be one of suicide and not otherwise.

e) In order to rule out even the slightest doubt regarding the involvement of MT with the suicide committed by the deceased, MT was put to a Polygraph examination. The Polygraph examination and the questions put to MT, as per the standardized guidelines, did not reveal that MT was involved in any manner whatsoever with the incident. Additionally, learned ASC also submitted that the said examination was conducted by the Central Forensic Science Laboratory, CBI which is a completely independent agency and even the IO was not present at the time of examination. In fact, he stated that the Polygraph Examination Report generated does not indicate anything incriminating against MT and infact notes that MT was truthful in her answers on the issues No.(i) to (v). In that view of the matter too, he stated that there was no foul play in the death of the deceased as per the Post Mortem Report read with Viscera Examination Report nor was MT involved in any manner as per the Polygraph examination conducted.

f) Learned ASC vociferously contended that the petitioner has selectively highlighted isolated aspects of the investigation in order to create a misleading impression that no meaningful steps of investigation were taken by the police authorities. In short, he submitted that multiple statements of the witnesses and all the people involved were recorded; mobile phones of the deceased and MT as well as car seat covers of the deceased were seized and sent for scientific examination to the FSL; CCTV footage, ligature material and



scissors found on the bed were also seized. The CDR of all the people involved including the friends of the deceased as also MT and the father of MT were collected, collated and analyzed by the police authorities. It was thereafter that further investigation was placed before the SIT and a very high ranking officer monitored the entire investigation process. After having undergone such numerous investigation process and being monitored by police officer of the rank of ACP/DCP, the Final Report/Closure Report was filed before the learned CMM on 20.09.2024. Predicated on the aforesaid submissions, learned ASC contended that no fault can be found with the investigation process or with the evidence collected, either the manner in which it was collected or in the manner in which it was examined and analyzed. He also contended that a baseless and desperate argument and allegation that the investigation was influenced by the father of the accused, as he was an employee of a subsidiary of M/s. Augusta Westland is being made by the petitioner, only to cause prejudice and nothing more.

g) Learned ASC also submitted that the prosecution did not leave anything to chance. Even the CCTV footage of the apartment block in which MT resided was obtained and analysed. According to him, no one entered or left the flat after the deceased entered (around 08:00 AM) except a delivery boy who had visited the flat of MT to deliver an order of footwear. He stated that the said delivery boy was traced and questioned who revealed that he had reached the flat at around 01:10 PM and despite ringing the door bell a number of times, no one opened the door and hence he had to return without completing his delivery. As per the statement of the delivery boy, he did not hear any voice from the said flat. Mr. Sinha asserted that thereafter, till MM i.e., the friend of



MT reached the flat around 4:45-5:00 PM on 13.06.2017 followed by the father of MT i.e., RT and later, the police officers, no person went inside the flat. He also informed that on the floor of the flat, there is only one more flat bearing Flat No.440 which is not occupied and remains locked. Thus, there is no other suspicious person or act or circumstance on which the prosecution could base its theory except suicide.

h) Mr. Sinha strenuously argued that the submission of the petitioner that the father of MT had influenced or interfered with the investigations or brought pressure on the police officers to change the course of the investigations is false and frivolous inasmuch as nothing concrete has been placed on record to substantiate such wild allegations. He stated that the father was rendering services in the Indian Navy and post retirement, was employed as a Regional Head of India and Nepal in the Indian subsidiary of M/s. Augusta Westland. He also stated that the flat in question is a very small and modest 2 BHK accommodation which depicts a man of modest means. He forcefully opposed the submission of the petitioner that the father of MT was a highly influential man only on account of employment in a company related to M/s. Augusta Westland. Apart from oral arguments, the petitioner has failed to demonstrate any activity on the part of the father which would lead a prudent person to entertain the thought about the father of MT influencing the investigations. He categorically asserted that the investigations were conducted in a very professional and dedicated manner completely independent of any influence. Further, it was also submitted that the entire investigation was being monitored by a high ranking officer like the DCP. Thus, according to him, this submission too is wild and imaginative and should be rejected.



- i) Regarding the photograph shown and handed over by the counsel for the petitioner during arguments on 15.11.2025, purported to be dated 15.06.2017, to allege open manipulation, he explained that when the FSL received the seized phone of MT on 15.11.2017, it was accessed for data extraction. He further explained that when FSL accesses a phone for data extraction, it would backdate the phone to a particular date for the purposes of limiting the last date of extraction prior to which the entire data is extracted. In the present case, according to learned ASC, the FSL backdated the extraction to 15.06.2017. He also pointed out that the brown case file visible in the photograph clearly indicates the date of 15.11.2017 i.e., the date when the phone was received by FSL, meaning thereby that the said photograph could not have been taken before 15.11.2017 or as alleged, on 15.06.2017.
- j) Learned ASC finally contended that it is not as if the petitioner is without any remedy even at this stage inasmuch as the concerns raised in the present writ petition, though unfounded, can still be urged before the learned CMM in a protest petition which may be filed against the Closure Report. Having regard to the fact that the petitioner has an efficacious alternative remedy to urge the very same grievances before the appropriate Court of law, this Court in exercise of its writ jurisdiction may not entertain the writ petition. More so, since the entire premise on which the present writ petition is predicated, involves highly disputed questions involving complex facts which cannot be and ought not to be entered into by this Court in a petition under Article 226 of the Constitution of India, 1950. In that view of the matter, he prayed that the present writ petition being devoid of merits, be dismissed.



### **ANALYSIS & CONCLUSION:-**

23. The task before this Court, to say the least, is akin to walking the razor's edge. In that, on one side, there is the emotion of a mother who has lost her only son in circumstances which she believes are not innocent while on the other is a young girl, who has been caught in such tragic and unforgiving circumstances, trying to extricate herself from what could become a cruel fate.

24. Before this Court proceeds to analyse and apply the standards of basic investigative requirements, it would be appropriate to examine the law as enunciated by the Hon'ble Supreme Court while exercising powers under Article 226 of the Constitution of India to transfer investigations being conducted by the local police to a more specialized and scientific investigative institution like the Central Bureau of Investigation (CBI). Rather than delving upon the deluge of judgments, it may be more appropriate to consider a few which have laid down the principles governing such transfer. It would be paramount to undertake this exercise since undoubtedly, the primordial principle laid down is that the Constitutional Courts ought to tread with caution and extreme circumspection before passing any order transferring investigation from the local police authorities to the CBI or equivalent. However, in all those cases where the Courts have allowed transfer, the divergence to the settled principle was only based on the facts arising in the case compelling the Courts to consider otherwise. The judgements laying down the aforesaid principle are as follows:-

(i) ***Himanshu Kumar vs. State of Chhattisgarh: (2023) 12 SCC 592***

*“Position of law*

*44. It is now settled law that if a citizen, who is a de facto complainant in a criminal case alleging commission of cognizable offence affecting violation of his legal or fundamental rights against high government officials or influential*



persons, prays before a court for a direction of investigation of the said alleged offence by CBI, such prayer should not be granted on mere asking.

45. A Constitution Bench of this Court, in *State of W.B. v. Committee for Protection of Democratic Rights* [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571], has made the following observations pointing out the situations where the prayer for investigation by CBI should be allowed.

“70. ... Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such powers should be exercised, but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. **This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.** Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”

(emphasis supplied)

46. In the above decision, it was also pointed out that the same Court in *Minor Irrigation & Rural Engg. Services, U.P. v. Sahngoo Ram Arya* [(2002) 5 SCC 521], had said that an order directing an enquiry by CBI should be passed only when the High Court, after considering the material on record, comes to the conclusion that such material does disclose a *prima facie* case calling for an investigation by CBI or any other similar agency.

47. In an appropriate case when the Court feels that the investigation by the police authorities is not in a proper direction, and in order to do complete justice in the case and if high police officials are involved in the alleged crime, the Court may be justified in such circumstances to hand over the investigation to an independent agency like CBI. By now it is well-settled that even after the filing of the charge-sheet the court is empowered in an appropriate case to hand over the investigation to an independent agency like CBI.

48. The extraordinary power of the constitutional courts under Articles 32 and 226, respectively, of the Constitution of India qua the issuance of directions to CBI to conduct investigation must be exercised with great caution as underlined by this





*Court in Committee for Protection of Democratic Rights [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571] as adverted to hereinabove, observing that although no inflexible guidelines can be laid down in this regard, yet it was highlighted that such an order cannot be passed as a matter of routine or merely because the parties have levelled some allegations against the local police and can be invoked in exceptional situations where it becomes necessary to provide credibility and instil confidence in the investigation or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights.*

*49. We are conscious of the fact that though a satisfaction of want of proper, fair, impartial and effective investigation eroding its credence and reliability is the precondition for a direction for further investigation or re-investigation, submission of the charge-sheet ipso facto or the pendency of the trial can, by no means, be a prohibitive impediment. The contextual facts and the attendant circumstances have to be singularly evaluated and analysed to decide the needfulness of further investigation or re-investigation to unravel the truth and mete out justice to the parties. The prime concern and the endeavour of the court of law should be to secure justice on the basis of true facts which ought to be unearthed through a committed, resolved and a competent investigating agency.*

*50. The above principle has been reiterated in K.V. Rajendran v. State of T.N. [(2013) 12 SCC 480]. Dr B.S. Chauhan, J. speaking for a three-Judge Bench of this Court held : (SCC p. 485, para 13)*

*“13. ... This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State investigating agency to any other independent investigating agency like CBI. It has been held that the power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having “a fair, honest and complete investigation”, and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies.”*

*51. Elaborating on this principle, this Court further observed: (K.V. Rajendran case)*

*“17. ... the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and*





exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is *prima facie* found to be tainted/biased.”

52. The Court reiterated that an investigation may be transferred to CBI only in “rare and exceptional cases”. One factor that courts may consider is that such transfer is “imperative” to retain “public confidence in the impartial working of the State agencies”. This observation must be read with the observations made by the Constitution Bench in Committee for Protection of Democratic Rights, that mere allegations against the police do not constitute a sufficient basis to transfer the investigation.

xxx

xxx

xxx

55. The principle of law that emerges from the precedents of this Court is that the power to transfer an investigation must be used “sparingly” and only “in exceptional circumstances”. In assessing the plea urged by the petitioner that the investigation must be transferred to CBI, we are guided by the parameters laid down by this Court for the exercise of that extraordinary power.”

[emphasis supplied]

(ii) **K.V. Rajendran vs. Supt. of Police: (2013) 12 SCC 480**

“13. The issue involved herein, is no more res integra. This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State investigating agency to any other independent investigating agency like CBI. It has been held that the power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having “a fair, honest and complete investigation”, and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. Where the investigation has already been completed and charge-sheet has been filed, ordinarily superior courts should not reopen the investigation and it should be left open to the court, where the charge-sheet has been filed, to proceed with the matter in accordance with law. Under no circumstances, should the court make any expression of its opinion on merit relating to any accusation against any individual. (Vide Gudalure M.J. Cherian v. Union of India [(1992) 1 SCC 397] , R.S. Sodhi v. State of U.P. [AIR 1994 SC 38] , Punjab and Haryana High Court Bar Assn. v. State of Punjab [(1994) 1 SCC 616] , Vineet Narain v. Union of India [(1996) 2 SCC] , Union of India v. Sushil Kumar Modi [(1996) 6 SCC 500] , Disha v. State of



*Gujarat [(2011) 13 SCC 337] , Rajender Singh Pathania v. State (NCT of Delhi) [(2011) 13 SCC 329] and State of Punjab v. Davinder Pal Singh Bhullar [(2011) 14 SCC 770] ).*

*14. In Rubabbuddin Sheikh v. State of Gujarat [(2010) 2 SCC 200], this Court dealt with a case where the accusation had been against high officials of the Police Department of the State of Gujarat in respect of killing of persons in a fake encounter and Gujarat Police after the conclusion of the investigation, submitted a charge-sheet before the competent criminal court. The Court came to the conclusion that as the allegations of committing murder under the garb of an encounter are not against any third party but against the top police personnel of the State of Gujarat, the investigation concluded by the State investigating agency may not be satisfactorily held. Thus, in order to do justice and instil confidence in the minds of the victims as well of the public, the State police authority could not be allowed to continue with the investigation when allegations and offences were mostly against top officials. Thus, the Court held that even if a charge-sheet has been filed by the State investigating agency there is no prohibition for transferring the investigation to any other independent investigating agency.*

*15. In State of W.B. v. Committee for Protection of Democratic Rights [(2010) 3 SCC 571], a Constitution Bench of this Court has clarified that extraordinary power to transfer the investigation from State investigating agency to any other investigating agency must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigation or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. (See also Ashok Kumar Todi v. Kishwar Jahan [(2011) 3 SCC 758] .)*

*16. This Court in Sakiri Vasu v. State of U.P. [(2008) 2 SCC 409] held:*

*“31. ... this Court or the High Court has power under Article 136 or Article 226 to order investigation by CBI. That, however, should be done only in some rare and exceptional case, otherwise, CBI would be flooded with a large number of cases and would find it impossible to properly investigate all of them.”*

*(emphasis supplied)*

*17. In view of the above, the law can be summarised to the effect that the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and*



further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased.”

[emphasis supplied]

(iii) ***Vinay Aggarwal vs. State of Haryana: (2025) 5 SCC 149***

*“7. We have gone through both the FIRs. We may not agree with the contentions of the appellant that the two FIRs, the one which has already been quashed and the second in which the investigation has now been handed over to CBI vide the impugned order, are broadly similar in nature. They relate to different incidents and may have a different cause of action though some incidents narrated in one do relate to the other, but what is difficult for us to comprehend is that when the present FIR itself was filed on 22-10-2022 and the investigation itself was in its initial stage, then what was the burning hurry for the complainant to approach the High Court under Section 482 CrPC as early as January 2023 seeking an investigation by CBI instead of local police. Vague and bald allegations were made in Section 482CrPC petition such as that the appellant was seen masquerading as an IB officer, and he was seen in the company of policemen of Haryana, etc.*

*8. The main ground taken by the complainant before the High Court was that the police officials are acquainted with the appellant and those officers may also be involved in the present case. These claims of the complainant are not substantiated at all. Also, we may note that, in the same petition, the complainant had admitted that he knew the appellant since 2019 as they were doing business together and even if we assume that the appellant was impersonating himself as an IPS officer, it is difficult to believe that the complainant was not able to find out the truth till October 2022. Thus, in our considered view, the High Court ought to have been slow in interfering in this matter as this is not a case which should have been handed over to CBI at the initial stage itself.*

*9. While quashing the earlier FIR against the appellant, the Himachal Pradesh High Court had also observed that the complainant and other witnesses have used the FIR (No. 01/2022) as a weapon to settle down the business disputes with the appellant. The appellant also contends that the money shown to be transferred in his account from the account of the complainant's firms is the money which was taken by the complainant as a loan. However, we are not expressing any views on the merits of the case as all these aspects have to be seen during the investigation.*

*10. We are only on the issue of handing over the investigation to CBI. In State of W.B. v. Committee for Protection of Democratic Rights [(2010) 3 SCC 571] , a five-Judge Bench of this Court held that Constitutional Courts are fully empowered to direct for CBI investigation, and restrictions under the Delhi*



*Special Police Establishment Act, 1946 do not apply to Constitutional Courts. However, this Court had also observed that CBI investigation should not be directed in a routine manner or just because some allegations have been made against the local police. The courts should direct for CBI investigation only in exceptional cases. This is what was said by this Court:*

*“70. ... Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”*

*11. The parameters laid down by this Court in Committee for Protection of Democratic Rights [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571] are not fulfilled in the present case so as to exercise the extraordinary powers of directing CBI investigation. Moreover, in our opinion, the High Court was perhaps moved by the assertions made by the complainant that local police officers who will do the investigation are of lesser ranks and that the matter involves some high ranking officials and thus, local police will not be able to investigate the matter properly. However, these allegations are vague and moreover, the Commissioner, Panchkula had constituted a three-member Special Investigation Team (SIT) under the Chairmanship of the Assistant Commissioner of Police (ACP) for the investigation.”*

25. The prayer for transfer of investigation from the local police authorities to the CBI is not readily or ordinarily granted as a matter of routine and only in the most exceptional cases, would a Constitutional Court under Article 226 of the Constitution of India exercise such power. The Constitutional Courts are not only to self regulate themselves but also understand the circumscribed nature of such exercise. They are not to interfere merely on some assumed suspicion, but



only when the issues are disproportionately grave and interests of justice and the fair trial are at stake. No innocent should be punished, equally, no offender should also be allowed to escape.

26. Broadly, the power to transfer an investigation must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where such an order may be necessary for doing complete justice and enforcing rights. A Constitutional Court may order an enquiry to be conducted by CBI after carefully considering the material on record and reaching a conclusion that such material or the defects in investigations are of such nature which if conducted properly, may result in a different consequence. That said, it is imperative to also now examine those line of judgments where the Courts were indeed propelled to transfer such investigations to an institution like CBI, which are as follows:-

**(i) *Dharampal vs. State of Haryana and Ors.: (2016) 4 SCC 160***

*“13. First, we intend to deal with the stand of CBI and the principles laid down in Committee for Protection of Democratic Rights [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571 : (2010) 2 SCC (Cri) 401] . In the said case, the Constitution Bench, after examining the rival contentions in the context of the constitutional scheme, recorded the following conclusions :*

*“(i) The fundamental rights, enshrined in Part III of the Constitution, are inherent and cannot be extinguished by any constitutional or statutory provision. Any law that abrogates or abridges such rights would be violative of the basic structure doctrine. The actual effect and impact of the law on the rights guaranteed under Part III has to be taken into account in determining whether or not it destroys the basic structure.*

*(ii) Article 21 of the Constitution in its broad perspective seeks to protect the persons of their lives and personal liberties except according to the procedure established by law. The said article in its broad application not only takes within its fold enforcement of the rights of an accused but also the rights of the victim. **The State has a***





***duty to enforce the human rights of a citizen providing for fair and impartial investigation against any person accused of commission of a cognizable offence, which may include its own officers. In certain situations even a witness to the crime may seek for and shall be granted protection by the State.***

*(iii) In view of the constitutional scheme and the jurisdiction conferred on this Court under Article 32 and on the High Courts under Article 226 of the Constitution the power of judicial review being an integral part of the basic structure of the Constitution, no Act of Parliament can exclude or curtail the powers of the constitutional courts with regard to the enforcement of fundamental rights. As a matter of fact, such a power is essential to give practicable content to the objectives of the Constitution embodied in Part III and other parts of the Constitution. Moreover, in a federal constitution, the distribution of legislative powers between Parliament and the State Legislature involves limitation on legislative powers and, therefore, this requires an authority other than Parliament to ascertain whether such limitations are transgressed. Judicial review acts as the final arbiter not only to give effect to the distribution of legislative powers between Parliament and the State Legislatures, it is also necessary to show any transgression by each entity. Therefore, to borrow the words of Lord Steyn, judicial review is justified by combination of 'the principles of separation of powers, rule of law, the principle of constitutionality and the reach of judicial review'.*

*(iv) If the federal structure is violated by any legislative action, the Constitution takes care to protect the federal structure by ensuring that the courts act as guardians and interpreters of the Constitution and provide remedy under Articles 32 and 226, whenever there is an attempted violation. In the circumstances, any direction by the Supreme Court or the High Court in exercise of power under Article 32 or 226 to uphold the Constitution and maintain the rule of law cannot be termed as violating the federal structure.*

*(v) Restriction on Parliament by the Constitution and restriction on the executive by Parliament under an enactment, do not amount to restriction on the power of the judiciary under Articles 32 and 226 of the Constitution.*

*(vi) If in terms of Schedule VII List II Entry 2 on the one hand and Entry 2-A and Entry 80 of List I on the other, an investigation by another agency is permissible subject to grant of consent by the State concerned, there is no reason as to why, in an exceptional situation,*



*the Court would be precluded from exercising the same power which the Union could exercise in terms of the provisions of the statute. In our opinion, exercise of such power by the constitutional courts would not violate the doctrine of separation of powers. In fact, if in such a situation the Court fails to grant relief, it would be failing in its constitutional duty.*

*(vii) When the Special Police Act itself provides that subject to the consent by the State, CBI can take up investigation in relation to the crime which was otherwise within the jurisdiction of the State police, the Court can also exercise its constitutional power of judicial review and direct CBI to take up the investigation within the jurisdiction of the State. **The power of the High Court under Article 226 of the Constitution cannot be taken away, curtailed or diluted by Section 6 of the Special Police Act.** Irrespective of there being any statutory provision acting as a restriction on the powers of the courts, the restriction imposed by Section 6 of the Special Police Act on the powers of the Union, cannot be read as restriction on the powers of the constitutional courts. Therefore, exercise of power of judicial review by the High Court, in our opinion, would not amount to infringement of either the doctrine of separation of power or the federal structure.”*

*(emphasis supplied)*

**14.** *After recording the conclusions, the Constitution Bench added a note of caution which we may profitably reproduce : (Committee for Protection of Democratic Rights case)*

*“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. **This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice***





*and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, it may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”*

*(emphasis supplied)*

*15. In the said case in Committee for Protection of Democratic Rights case, a contention was raised that a detailed charge-sheet had been filed and subsequent to the filing of the said detailed charge-sheet, a supplementary charge-sheet had also been filed to complete the evidence, both oral and documentary, to bring home the guilt of the accused before the competent court and in accordance with the direction given by the Court, further investigation had been carried out in accordance with Section 173(8) of the Code of Criminal Procedure and, therefore, the jurisdiction of this Court under Article 32 of the Constitution had come to an end. In essence, the submission was that when a charge-sheet was filed after conducting the investigation under the supervision and monitoring of the Court, there was no need to transfer the case to another agency. Repelling the said submission, the larger Bench opined, regard being had to the nature of the crime and the persons involved, the investigation could not be said to be satisfactorily held. That apart, the Constitution Bench also ruled that in the circumstances it was not sufficient to instil confidence in the minds of the victims as well as the public at large that State should be allowed to continue the investigation when the alleged offences were against its officials. Under these circumstances, the Court directed CBI to take up the investigation and submit a report.*

*16. On a perusal of the said authority in Committee for Protection of Democratic Rights case, we really do not find any aspect which would support the stand put forth by the learned counsel for CBI. On the contrary, as we perceive, the Constitution Bench has laid great emphasis on instilling of faith of the victim and the public at large in the investigating agency. True it is, the facts in the said case were different and related to alleged crimes committed by certain State officials, but the base of confidence in investigation has been significantly highlighted.*

*17. In the context, we may profitably refer to a two-Judge Bench decision in Narmada Bai v. State of Gujarat [(2011) 5 SCC 79]. The Court, in the factual matrix of the case, has emphasised that :*

*“59. ... If the majesty of the rule of law is to be upheld and if it is to be ensured that the guilty are punished in accordance with law notwithstanding their status and authority which they might have enjoyed, it is desirable to entrust the investigation to CBI.”*



*18. A three-Judge Bench in K.V. Rajendran v. Supt. of Police [(2013) 12 SCC 480] reiterating the said principle stated that :*

*“13. ... the power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having ‘a fair, honest and complete investigation’, and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies.”*

*19. The Court, after referring to earlier decisions, has laid down as follows:*

*“17. In view of the above, the law can be summarised to the effect that the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased.”*

*20. The factual scenario in the present case has to be appreciated on the touchstone of the aforesaid authorities. As the facts would reveal there was a request by the Additional Chief Secretary for handing over the investigation to CBI; that departmental action was taken against the investigating authorities for negligent investigation; that the ASI concerned has been reverted to the post of Head Constable; and that apart, certain material witnesses have not been examined by the investigating agency without any rhyme or reason. The reasoning of the High Court is that as the trial has commenced, there cannot be a transfer of the case to another investigating agency.*

*21. In this context, we may notice the statutory scheme pertaining to investigation. Section 173 CrPC empowers the police officer conducting investigation to file a report on completion of the investigation with the Magistrate empowered to take cognizance of the offence. Section 173(8) CrPC empowers the officer-in-charge to conduct further investigation even after filing of a report under Section 173(2) CrPC if he obtains further evidence, oral or documentary. Thus, the power of the police officer under Section 173(8) CrPC is unrestricted. Needless to say, the Magistrate has no power to interfere but it would be appropriate on the part of the investigating officer to inform the Court. It has been so stated in Rama Chaudhary v. State of Bihar [(2009) 6 SCC 346] .*



22. In *Vinay Tyagi v. Irshad Ali* [(2013) 5 SCC 762], wherein a two-Judge Bench, after referring to the decision in *Bhagwant Singh v. Commr. of Police* [(1985) 2 SCC 537] has held thus:

“38. However, having given our considered thought to the principles stated in these judgments, we are of the view that the Magistrate before whom a report under Section 173(2) of the Code is filed, is empowered in law to direct ‘further investigation’ and require the police to submit a further or a supplementary report. A three-Judge Bench of this Court in *Bhagwant Singh* [(1985) 2 SCC 537] has, in no uncertain terms, stated that principle, as aforenoticed.”

23. In the said case, the question had arisen whether a Magistrate can direct for reinvestigation. While dealing with the said issue, the Court has observed :

“43. At this stage, we may also state another well-settled canon of the criminal jurisprudence that the superior courts have the jurisdiction under Section 482 of the Code or even Article 226 of the Constitution of India to direct ‘further investigation’, ‘fresh’ or ‘de novo’ and even ‘reinvestigation’. ‘Fresh’, ‘de novo’ and ‘reinvestigation’ are synonymous expressions and their result in law would be the same. **The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has to be exercised by the superior courts very sparingly and with great circumspection.**”

(emphasis supplied)

And again,

“51. ... Whether the Magistrate should direct ‘further investigation’ or not is again a matter which will depend upon the facts of a given case. The learned Magistrate or the higher court of competent jurisdiction would direct ‘further investigation’ or ‘reinvestigation’, as the case may be, on the facts of a given case. Where the Magistrate can only direct further investigation, the courts of higher jurisdiction can direct further, reinvestigation or even investigation de novo depending on the facts of a given case. It will be the specific order of the court that would determine the nature of investigation.”

24. Be it noted here that the constitutional courts can direct for further investigation or investigation by some other investigating agency. The purpose is, there has to be a fair investigation and a fair trial. The fair trial may be quite difficult unless there is a fair investigation. We are absolutely conscious that



direction for further investigation by another agency has to be very sparingly issued but the facts depicted in this case compel us to exercise the said power. We are disposed to think that purpose of justice commands that the cause of the victim, the husband of the deceased, deserves to be answered so that miscarriage of justice is avoided. Therefore, in this case the stage of the case cannot be the governing factor.

25. We may further elucidate. The power to order fresh, de novo or reinvestigation being vested with the constitutional courts, the commencement of a trial and examination of some witnesses cannot be an absolute impediment for exercising the said constitutional power which is meant to ensure a fair and just investigation. It can never be forgotten that as the great ocean has only one taste, the taste of salt, so does justice have one flavour, the flavour of answering to the distress of the people without any discrimination. We may hasten to add that the democratic set-up has the potentiality of ruination if a citizen feels, the truth uttered by a poor man is seldom listened to. Not for nothing it has been said that sun rises and sun sets, light and darkness, winter and spring come and go, even the course of time is playful but truth remains and sparkles when justice is done. It is the bounden duty of a court of law to uphold the truth and truth means absence of deceit, absence of fraud and in a criminal investigation a real and fair investigation, not an investigation that reveals itself as a sham one. It is not acceptable. It has to be kept uppermost in mind that impartial and truthful investigation is imperative. If there is indentation or concavity in the investigation, can the "faith" in investigation be regarded as the gospel truth? Will it have the sanctity or the purity of a genuine investigation? If a grave suspicion arises with regard to the investigation, should a constitutional court close its hands and accept the proposition that as the trial has commenced, the matter is beyond it? That is the "tour de force" of the prosecution and if we allow ourselves to say so it has become "idée fixe" but in our view the imperium of the constitutional courts cannot be stifled or smothered by bon mot or polemic. Of course, the suspicion must have some sort of base and foundation and not a figment of one's wild imagination. One may think an impartial investigation would be a nostrum but not doing so would be like playing possum. As has been stated earlier, facts are self-evident and the grieved protagonist, a person belonging to the lower strata. He should not harbour the feeling that he is an "orphan under law".

26. In view of the aforesaid analysis, the appeal is allowed, the order of the High Court is set aside, and it is directed that CBI shall conduct the investigation and file the report before the learned trial Judge. The said investigation report shall be considered by the trial Judge as per law. Till the report by CBI is filed, the learned trial Judge shall not proceed with the trial. A copy of the order be handed over to Mr P.K. Dey, learned counsel for CBI to do the needful."



[emphasis supplied]

(ii) ***Pooja Pal v. Union of India: (2016) 3 SCC 135***

*“49. These notwithstanding, it would still be, in our opinion, imperative to examine as to whether for doing complete justice and enforcing the fundamental rights guaranteed by the Constitution, the relief of entrustment of the investigation of the case again to CBI is grantable or not on its own merits. This is chiefly, in view of the intrepid, audacious and fiendish intrusion of human right by the assassins in broad daylight at a public place, by definitely violating all canons of law and making a mockery of the administrative regime entrusted with the responsibility to maintain an orderly society. The terrorising impact of this incident and the barbaric manner of execution of the offence is also a factor which impels this Court to undertake such a scrutiny in the interest of public safety, a paramount duty entrusted to all the institutions of governance of our democratic polity. This is more so, where a grisly and intimidatory crime impacting upon the public confidence in the justice delivery system as a whole is involved, so as to ensure that such outrageous crimes do not go incautiously, unfathomed and unpunished.*

*50. The authorities cited at the Bar present the precedential spectrum of the curial jurisprudence in the context of entrustment of investigation to an instrumentality other than the local/State police agencies.*

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*59. Referring to its earlier decision in Karnel Singh v. State of M.P. [(1995) 5 SCC 518], it was reiterated that in a case of a defective investigation, the court has to be circumspect in evaluating the evidence and may have to adopt an active and analytical role to ensure that truth is found by having recourse to Section 311 of the Code or at a later stage also resorting to Section 391 instead of throwing hands in the air in despair. It recalled as well its observations in Ram Bihari Yadav v. State of Bihar [(1998) 4 SCC 517] that the courts are installed for justice-oriented mission and thus, if a negligent investigation or omissions or lapses due to perfunctory investigation are not effectively rectified, the faith and confidence of the people would be shaken in the law-enforcing agency and also in the institution devised for administration of justice.*

*60. Though, as referred to hereinabove, trial was completed and the accused persons were acquitted, in the textual facts, this Court in Zahira Habibulla case [(2004) 4 SCC 158] did direct retrial as prayed for, to avoid subversion of the justice delivery system and ordered the investigating agency or those supervising the investigation to act in terms of Section 173(8) of the Code as the circumstances would so warrant.*





61. The observations and the propositions, though made in the backdrop of a request for retrial, those pertaining to the essentiality of a fair and complete investigation and trial as well as the solemn duty of the courts to ensure the discernment of truth to administer even handed justice as institutions of trust of public faith and confidence, are in our estimate, of universal application and binding effect, transcending the factual settings of a case. An adverse deduction vis-à-vis the quality of investigation and a trial trivialising the cause of justice, is however the essential prerequisite, for such remedial intervention by way of further investigation, reinvestigation, additional evidence, retrial, etc. to be made objectively but assuredly for the furtherance of the salutary objectives of the justice dispensing system as contemplated in law, it being of paramount pre-eminence.

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64. The content and scope of the power under Article 226 of the Constitution of India to direct investigation by CBI in a cognizable offence, alleged to have taken place within the territorial jurisdiction of the State, without the consent of the State Government fell for scrutiny of this Court in Committee for Protection of Democratic Rights [State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571]. While examining the issue in the context of the power of judicial review as embedded in the constitutional scheme, it was held that no Act of Parliament could exclude or curtail the powers of the constitutional courts in that regard. Reiterating, that the power of judicial review is an integral part of the basic structure of the Constitution, it was underlined that the same was essential to give a pragmatic content to the objectives of the Constitution embodied in Part III and other parts thereof. In elaboration, it was held that Article 21 of the Constitution not only takes within its fold, the enforcement of the rights of the accused but also the rights of the victim. It was predicated that the State has a duty to enforce the human rights of the citizens providing for fair and impartial investigation, against any person accused of commission of any cognizable offence.

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75. That the extraordinary power of the constitutional courts under Articles 32 and 226 of the Constitution of India qua the issuance of direction to CBI to conduct investigation must be exercised with great caution, was underlined in Committee for Protection of Democratic Rights as adverted to hereinabove. Observing that although no inflexible guidelines can be laid down in this regard, it was highlighted that such an order cannot be passed as a matter of routine or merely because the party has levelled some allegations against the local police and can be invoked in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigation or where the incident may



have national and international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights.”

[emphasis supplied]

(iii) **Mithilesh Kumar Singh v. State of Rajasthan: (2015) 9 SCC 795**

*“6. Importance of a fair and proper investigation cannot be understated. In an adversarial system of administration of justice, fairness of investigation is the very first requirement for the fairness of a trial. A trial based on a partisan, motivated, one-sided, or biased investigation can hardly be fair. That is because while the trial itself may be procedurally correct, the essence and the purpose thereof may be vitiated by an unfair or ineffective investigation. This Court has in several pronouncements, emphasised the importance of the fairness of the investigation. Reference, in this regard, may be made to the decision of this Court in Manu Sharma v. State (NCT of Delhi) [(2010) 6 SCC 1] wherein this Court while dealing with the fairness of the investigation said:*

*“197. The criminal justice administration system in India places human rights and dignity for human life at a much higher pedestal. In our jurisprudence an accused is presumed to be innocent till proved guilty, the alleged accused is entitled to fairness and true investigation and fair trial and the prosecution is expected to play balanced role in the trial of a crime. The investigation should be judicious, fair, transparent and expeditious to ensure compliance with the basic rule of law. These are the fundamental canons of our criminal jurisprudence and they are quite in conformity with the constitutional mandate contained in Articles 20 and 21 of the Constitution of India.”*

*7. In Nirmal Singh Kahlon v. State of Punjab [(2009) 1 SCC 441] , this Court held that fairness of investigation is important not only for the accused but even for the victim. This Court said:*

*“28. An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e. to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation.”*

*8. To the same effect is the decision of this Court in Sasi Thomas v. State [(2006) 12 SCC], where fairness of investigation was recognised as an important facet of the rule of law. The Court said:*





*“15. Proper and fair investigation on the part of the investigating officer is the backbone of the rule of law. A proper and effective investigation into a serious offence and particularly in a case where there is no direct evidence assumes great significance as collection of adequate materials to prove the circumstantial evidence becomes essential. Unfortunately, the appellant has not been treated fairly. When a death has occurred in a suspicious circumstance and in particular when an attempt had been made to bury the dead body hurriedly and upon obtaining apparently an incorrect medical certificate, it was expected that upon exhumation of the body, the investigating authorities of the State shall carry out their statutory duties fairly.”*

*9. Reference may also be made to Zahira Habibulla H. Sheikh v. State of Gujarat [(2004) 4 SCC 158] , wherein the Court held that justice can become a victim if the investigation is not fair. The Court observed:*

*“18. ... When the investigating agency helps the accused, the witnesses are threatened to depose falsely and the prosecutor acts in a manner as if he was defending the accused, and the court was acting merely as an onlooker and when there is no fair trial at all, justice becomes the victim.”*

*10. I may lastly refer to the decision of this Court in Babubhai v. State of Gujarat [(2010) 12 SCC 254], wherein the Court reiterated the legal position in the following words:*

*“32. The investigation into a criminal offence must be free from objectionable features or infirmities which may legitimately lead to a grievance on the part of the accused that investigation was unfair and carried out with an ulterior motive. It is also the duty of the investigating officer to conduct the investigation avoiding any kind of mischief and harassment to any of the accused. The investigating officer should be fair and conscious so as to rule out any possibility of fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. The investigating officer ‘is not merely to bolster up a prosecution case with such evidence as may enable the court to record a conviction but to bring out the real unvarnished truth’. (Vide R.P. Kapur v. State of Punjab [AIR 1960 SC 866], Jamuna Chaudhary v. State of Bihar [(1974) 3 SCC 774] and Mahmood v. State of U.P. [(1976) 1 SCC 542] )*

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*40. ... Therefore, if the court, comes to the conclusion that the investigation has been done in a manner with an object of helping a*



party, the court may direct for further investigation and ordinarily not for reinvestigation.

41. The expression 'ordinarily' means normally and it is used where there can be an exception. It means in the large majority of cases but not invariably. 'Ordinarily' excludes 'extraordinary' or 'special circumstances'. (Vide *Kailash Chandra v. Union of India* [AIR 1961 SC 1346], *Eicher Tractors Ltd. v. Commr. of Customs* [(2001) 1 SCC 315] and *State of A.P. v. V. Sarma Rao* [(2007) 2 SCC 159 : (2007) 1 SCC (Cri) 535].)

42. Thus, it is evident that in exceptional circumstances, the court in order to prevent the miscarriage of criminal justice, if considers necessary, it may direct for investigation de novo wherein the case presents exceptional circumstances.

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45. Not only the fair trial but fair investigation is also part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India. Therefore, investigation must be fair, transparent and judicious as it is the minimum requirement of the rule of law. The investigating agency cannot be permitted to conduct an investigation in a tainted and biased manner. Where non-interference of the court would ultimately result in failure of justice, the court must interfere. In such a situation, it may be in the interest of justice that independent agency chosen by the High Court makes a fresh investigation."

(emphasis in original)

11. Such being the importance of fair and proper investigation, this Court has in numerous cases arising out of several distinctly different fact situations exercised its power of transferring investigation from the State/jurisdictional police to the Central Bureau of Investigation under the Delhi Police Establishment Act. There was mercifully no challenge to the power of this Court to direct such a transfer and in my opinion rightly so as the question whether this Court has the jurisdiction to direct transfer stands authoritatively settled by the Constitution Bench of this Court in *State of W.B. v. Committee for Protection of Democratic Rights* [(2010) 3 SCC 571].

12. Even so the availability of power and its exercise are two distinct matters. This Court does not direct transfer of investigation just for the asking nor is transfer directed only to satisfy the ego or vindicate the prestige of a party interested in such investigation. The decision whether transfer should or should not be ordered rests on the Court's satisfaction whether the facts and circumstances of a given case demand such an order. No hard-and-fast rule has been or can possibly be



*prescribed for universal application to all cases. Each case will obviously depend upon its own facts. What is important is that the Court while exercising its jurisdiction to direct transfer remains sensitive to the principle that transfers are not ordered just because a party seeks to lead the investigator to a given conclusion. It is only when there is a reasonable apprehension about justice becoming a victim because of shabby or partisan investigation that the Court may step in and exercise its extraordinary powers. The sensibility of the victims of the crime or their next of kin is not wholly irrelevant in such situations. After all transfer of investigation to an outside agency does not imply that the transferee agency will necessarily, much less falsely implicate anyone in the commission of the crime. That is particularly so when transfer is ordered to an outside agency perceived to be independent of influences, pressures and pulls that are commonplace when State Police investigates matters of some significance. The confidence of the party seeking transfer in the outside agency in such cases itself rests on the independence of that agency from such or similar other considerations. It follows that unless the Court sees any design behind the prayer for transfer, the same must be seen as an attempt only to ensure that the truth is discovered. The hallmark of a transfer is the perceived independence of the transferee more than any other consideration. Discovery of truth is the ultimate purpose of any investigation and who can do it better than an agency that is independent.*

*13. Having said that we need to remind ourselves that this Court has, in several diverse situations, exercised the power of transfer. In Inder Singh v. State of Punjab [(1994) 6 SCC 275] this Court transferred the investigation to CBI even when the investigation was being monitored by senior officers of the State Police. So also in R.S. Sodhi v. State of U.P. [1994 Supp (1) SCC 143] investigation was transferred even when the State Police was doing the needful under the supervision of an officer of the rank of an Inspector General of Police and the State Government had appointed a one-member Commission of Inquiry headed by a sitting Judge of the High Court to enquire into the matter. This Court held that however faithfully the police may carry out the investigation the same will lack credibility since the allegations against the police force involved in the encounter resulting in the killing of several persons were very serious. The transfer to CBI, observed this Court, “would give reassurance to all those concerned including the relatives of the deceased that an independent agency was looking into the matter”.*

*14. Reference may also be made to the decision of this Court in State of Punjab v. CBI [(2011) 9 SCC 182] wherein this Court upheld the order transferring investigation from the State Police to CBI in connection with a sex scandal even when the High Court had commended the investigation conducted by the DIG and his team of officers. In Subrata Chattoraj v. Union of India [(2014) 8 SCC 768] , this Court directed transfer of the Chit Fund Scam in the States of*



*West Bengal and Orissa from the State Police to CBI keeping in view the involvement of several influential persons holding high positions of power and influence or political clout.*

**15. Suffice it to say that transfers have been ordered in varied situations but while doing so the test applied by the Court has always been whether a direction for transfer, was keeping in view the nature of allegations, necessary with a view to making the process of discovery of truth credible. What is important is that this Court has rarely, if ever, viewed at the threshold the prayer for transfer of investigation to CBI with suspicion. There is no reluctance on the part of the Court to grant relief to the victims or their families in cases, where intervention is called for, nor is it necessary for the petitioner seeking a transfer to make out a cast-iron case of abuse or neglect on the part of the State Police, before ordering a transfer. Transfer can be ordered once the Court is satisfied on the available material that such a course will promote the cause of justice, in a given case.**

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*22. It is true that the prayer for transfer of investigation from the State Police to CBI can be allowed only in rare and exceptional circumstances when fair investigation by the State Police does not inspire confidence on account of any external influence or otherwise as held in State of W.B. v. Committee for Protection of Democratic Rights [(2010) 3 SCC 571]. There can be no cast-iron parameters and whether an exceptional situation has arisen may be determined by the Court by taking an overview of the fact situation of a particular case. In the present case, we do not consider it necessary to blame the college authorities or the local police but we are also unable to reject the apprehension of the petitioner and his prayer for transfer of investigation. The death of a young girl student has taken place in mysterious circumstances. According to the petitioner, the statement of the girl was not recorded even though it could have been done and thus, truth has not come out. In these circumstances, without expressing any opinion on merits, it will be appropriate that the matter is investigated by CBI.”*

[emphasis supplied]

27. On an overall conspectus and a balanced evaluation of this line of judgments, it is apparent that in case the Constitutional Court finds deficiency in or an unsatisfactory investigation, it would be its duty to ensure effective conduct of prosecution including powers to direct reinvestigation or transfer investigation if after lifting the veil, it is clear that there is either shoddy investigation or lack



of due diligence and care in such investigation. It is apparent that there is a duty cast on the Court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice. In ***Bharati Tamang vs. Union of India & Ors.: (2013) 15 SCC 578***, the Hon'ble Supreme Court succinctly culled out the principles after considering various decisions placed before it, in para 41 of the judgment, which is extracted hereunder:-

*“41. From the various decisions relied upon by the petitioner counsel as well as by respondents' counsel, the following principles can be culled out.*

*41.1. The test of admissibility of evidence lies in its relevancy.*

*41.2. Unless there is an express or implied constitutional prohibition or other law, evidence placed as a result of even an illegal search or seizure is not liable to be shut out.*

*41.3. If deficiency in investigation or prosecution is visible or can be perceived by lifting the veil which try to hide the realities or covering the obvious deficiency, Courts have to deal with the same with an iron hand appropriately within the framework of law.*

*41.4. It is as much the duty of the prosecutor as of the Court to ensure that full and material facts are brought on record so that there might not be miscarriage of justice.*

*41.5. In order to ensure that the criminal prosecution is carried on without any deficiency, in appropriate cases this Court can even constitute Special Investigation Team and also give appropriate directions to the Central and State Governments and other authorities to give all required assistance to such specially constituted investigating team in order to book the real culprits and for effective conduct of the prosecution.*

*41.6. While entrusting the criminal prosecution with other instrumentalities of State or by constituting a Special Investigation Team, the High Court or this Court can also monitor such investigation in order to ensure proper conduct of the prosecution.*





*41.7. In appropriate cases even if the charge-sheet is filed it is open for this Court or even for the High Court to direct investigation of the case to be handed over to CBI or to any other independent agency in order to do complete justice.*

*41.8. In exceptional circumstances the Court in order to prevent miscarriage of criminal justice and if considers necessary may direct for investigation de novo.*

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*44. Having noted the various relevant features, we find force in the submission of the learned counsel for the petitioner that the proceeding of the case by the prosecution either by the State Police or by CID and after it was taken over by CBI was not carried out in a satisfactory manner. The very fact that after the occurrence took place on 21-5-2001 there was serious lapse in apprehending many of the accused and the absconding of the prime accused Nicol Tamang and Dinesh Subba till this date disclose that there was total lack of seriousness by the prosecution agency in carrying out the investigation. The circumstances pointed out on behalf of the petitioner, namely, the absconding of many of the accused between May 2010 and February 2013 was a very relevant circumstance which gives room for suspicion in the mind of this Court as to the genuineness with which the case of the prosecution was being carried out. The submission that the murder took place due to political rivalry cannot be a ground for anyone, much less, the investigation agency to display any slackness or lethargic attitude in the process of investigation. Whether it be due to political rivalry or personal vengeance or for that matter for any other motive a murder takes place, it is the responsibility of the police to come up to the expectation of the public at large and display that no stone will remain unturned to book the culprits and bring them for trial for being dealt with under the provisions of the criminal law of prosecution. Any slackness displayed in that process will not be in the interest of public at large and therefore as has been pointed out by this Court in the various decisions, which we have referred to in the earlier paragraphs, we find that it is our responsibility to ensure that the prosecution agency is reminded of its responsibility and duties in the discharge of its functions effectively and efficiently and ensure that the criminal prosecution is carried on effectively and the perpetrators of crime are duly punished by the appropriate court of law.*

*45. Inasmuch as the petitioner only seeks for handling of the case of murder of her deceased husband by the prosecuting agency, namely, CBI here with utmost earnestness against all the accused who were involved in the crime, we feel that by issuing appropriate directions in this writ petition and by monitoring the same the grievances expressed by the petitioner can be duly redressed and the interest of the public at large can be duly safeguarded."*

[emphasis supplied]



28. Apparently, the ratio laid down in the aforesaid judgements, engaging the attention of this Court, are the guiding principles which may be applied as per the facts arising in a particular case. It is not as if the Constitutional Courts are completely barred from exercise of such power of transfer nor is it that such power can be exercised in a routine manner. The same has to be sparing, cautious and extremely circumspect. In other words, there cannot be any straight jacket formula either for exercise of such power or prohibition, but the same may be dependent on facts emanating in a particular case. Having the backdrop of the guiding principles, this Court would now attempt to examine and analyse the facts arising in the present case which may or may not impel this Court to grant relief to the petitioner.

29. Since the facts have been narrated by both the parties in support of their versions, this Court need not venture in that arena. It is also relevant to bear in mind that the investigations were initially conducted by the IO of the local police, thereafter by the Crime Branch and subsequent thereto, by the SIT which were being monitored by the learned CMM. It would be a relevant consideration to examine as to why the investigation, hithertobefore being conducted by the IO of the Delhi Police, was first handed over to the Crime Branch and thereafter to the SIT. It is an eye opener to know that the initial transfer from one Mr. Sunil Jain, IO to another was done on the specific directions of the learned CMM who was *in seisin* of the FIR. In the order dated 25.04.2018, learned CMM noted that a SIT was constituted. As to why and what prompted the learned CMM to pass such direction would be best understood in the words of the concerned Court itself. The initial investigations, seizure and the manner in which the investigating agency was conducting itself is clear from the language employed





in the orders. The pain and anguish of the learned CMM in seeing a faltering and faulty investigation right from the inception would be clearer if this Court extracted such orders *ad verbatim*. However, for the sake of brevity and conciseness, this Court would only bring out the relevant portions of such orders. It would also be of great significance to note that while the incident occurred on 13.06.2017, no FIR was registered till an application under Section 156(3) of the erstwhile Cr.P.C., 1973 was filed by the petitioner and *vide* order dated 17.02.2018, learned CMM had directed registration of an FIR. Pursuant thereto, an FIR under Section 302 of the erstwhile IPC, 1860 was registered. This would be a clear indicator to the fact as to how the local police was proceeding with the investigations that required the complainant/petitioner to air her grievances before a Court of law for registration of an FIR which, in the ordinary circumstances where death has occurred in suspicious circumstances, would be registered being the most prudent course of action.

30. As stated above, the extracts of the relevant orders of the learned CMM commencing from order dated 17.02.2018 directing registration of FIR under Section 302 IPC are reproduced hereunder:-

### **Order dated 17.02.2018**

*“ Reply has been filed by the IO to the application moved by the complainant on the last date regarding production of photographs of the scene of the incident. The complainant had stated before the court on the last date that the IO had shown one photograph to her at PHQ where the back of the deceased son of the complainant could be seen. The IO had denied the existence of any such photographs. Even in the reply filed today he has stated that the complete records including photographs are on the case file.*

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*Another application has been filed seeking permission to place on record various other documents including statements of witnesses and 10 photographs purportedly received by the complainant from an unknown person.*



Out of the said photographs, there is one in which the deceased son of the complainant is lying with his face towards the floor and his back is visible. This vindicates the claim of the complainant that such a photograph was shown to her but not produced before the court and does not form part of the case record lying with the IO. This also belies the claim of the IO to the effect that no such photograph existed.

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During the course of arguments, various disturbing facts have been brought to the notice of the court. Perusal of the statement of Mr. Ranjeet Tiwari shows that he has told the IO that the fan from which the deceased hung himself had bent and was sold in scrap. Whereas, the photographs filed by the complainant today show that the fan was present in the room at the time of the incident and even thereafter and was completely intact. There were no signs of the fan being bent. It is relevant to mention here that a careful perusal of all the photographs clearly show that the fan of which the photographs have been filed today is located in the same room where the deceased died. This is apparent from the furniture and the bed sheet which are visible in other photographs. Interestingly, no photograph of the fan is located in the police file. It is also very relevant to mention here that not only is the fan not bent but it is completely covered in dust and even some cobwebs are seen hanging from the fan. It is inconceivable that if a person weighing about 80 kgs would have hung himself from the fan using a cloth then the dust settled on the fan and even the fragile cobweb would remain completely undisturbed.

The complainant also relied upon the PCR call form where the deceased has been referred to as 'ek ladka' by Ms. Megha Tiwari. Whereas, even as per the version of the police, the deceased and Ms. Megha Tiwari were staying together at the Raddison Blu hotel on 11.06.2017. Apparently, Ms. Megha Tiwari was trying to distance herself from the deceased whereas the material placed on record by the complainant shows that the two were in a fairly close relationship. It is also interesting to note that as per the version of Ms. Megha Tiwari they had ended their relationship whereas she was staying with the deceased a day before the incident.

The ligature mark pointed out by the Ld. counsel for the complainant, Mr. Dey is also of much relevance as it is pointed out that the same merges with the hairline going to the back of the neck. The Ld. counsel for the complainant Mr. Dey has rightly argued that as per settled norms of medical jurisprudence, in case of hanging, the ligature mark is mostly present on the front or at the most, the side of the neck. Whereas, it is in cases of strangulation that ligature marks are normally present even on the backside of the neck.

Apart from the aforesaid facts and circumstances brought to the notice of the Court by the Ld. counsel for the complainant, the court can't help but notice that from the day of the incident itself the police seems to have presumed that this is a case of suicide. Despite the deceased being found dead in such



mysterious circumstances, the police has refused to register an FIR despite serious allegations being leveled by the parents of the deceased. It seems that a deliberate attempt is being made right from the beginning to take the probe in this matter in the direction of a suicide. This is apparent from the fact that although no police official saw the deceased hanging from the fan, the police seems to have blindly accepted the version of Ms. Megha Tiwari. It is for this reason it seems that despite malafilde being alleged by the complainant and her husband, proceedings U/s 174 Cr. PC were initiated rather than registration of FIR to further strengthen the story of suicide. Even the polygraph test appears to have been conducted in a rudimentary manner, seemingly as a formality. Moreover, the absence of crucial photographs from police file show that the probe is not being conducted in an impartial manner as the theory of the police stands blown away by merely looking at the condition of the fan from which the deceased allegedly hung himself and which was allegedly bent but surprisingly appears completely intact and dusty in the photographs apparently taken on the day of incident filed by the complainant but interestingly, which is not seen in any of the photographs in the police file.

Another photograph in which back of the deceased is seen shows redness on the back. This photograph also does not appear in the police file.

The ingredients of Section 156(3) Cr. PC are clear. The complainant has alleged commission of a cognizable offence. The complainant has approached senior police officials but no action has been taken on her complaint. The case requires thorough police investigation not only to determine the true facts behind the tragic death of deceased Arnav Duggal, but now also to uncover this blatant attempt to portray the death as a suicide from the very beginning.

The third application has been filed by the complainant that the entire police record of this case be endorsed and a copy be kept by the court. The court feels duty bound to direct that a copy of the entire police record shall be kept by the Ahlmad in a sealed cover after the endorsement on each page of the police record by this court.

In view of the facts and circumstances given above, the court hereby directs that an FIR be registered under appropriate provisions of law and the circumstances surrounding the death of deceased Arnav Duggal be investigated in view of the allegations of the complainant. At the same time, it is relevant to note here that this court is not expressing any definitive opinion on the conduct of the IO as of now, however, the court hereby directs that the inquiry already being conducted be transferred immediately from Insp. Sunil Jain and be handed over to some other responsible and senior officer. Insp. Sunil Jain is also directed to explain why appropriate action not be taken against him for the conduct pointed out above and he shall furnish his explanation in writing to the court on or before the next date.

A copy of this order be sent to the Commissioner of Police Delhi with directions to conduct enquiry into to the alleged lapses on part of the police



officials involved in the present case and in case, any deliberate attempt to scuttle the probe is found in view of the circumstances referred to above then strict action be taken which shall be intimated to this court on or before the next date.”

[emphasis supplied]

### **Order dated 28.04.2018**

“ ...In addition to the list of peculiarities that have already been noticed in this investigation, the court is once again constrained to point out that till 25.04.2018, the initial inquest proceedings and investigation subsequent to registration of FIR was being conducted by the successive concerned officials/officers without even bringing photographs of the postmortem on the case file once again for reasons best known to them. This is despite the fact that this court vide order dated 17.02.2018 has already directed the Commissioner of Police to conduct inquiry into the alleged lapses on part of the police officials of various divisions/police stations who were involved in the present probe. In an earlier status report, the court was informed that report of inquiry shall be furnished after the completion of investigation in this case. Perhaps, the concerned officer would want to take the above given facts into consideration while conducting such inquiry.

**Equally strange is the fact that while the postmortem report of the Department of Forensic Medicine and Toxicology, AIIMS refers to eight photographs, the IO has today produced 12 photographs of the postmortem.** Let this be clarified by the Investigating officials as to whether there were 8 photographs of the postmortem or 12 and whether the 8 photographs referred to in the report are same or different from the photographs that have been now been brought on the police file.

The IO has confirmed that the visitor's record register of the Shakuntalam Apartment and CCTV footage has been obtained. Under normal circumstances, the court would not have burdened its record by seeking such records to be placed on the judicial file. However, keeping in mind the long list of peculiarities noticed uniquely in this particular investigation, this court is constrained to direct that coloured copies of ALL postmortem photographs along with video be placed on record along with copy of the Visitor's Record Register of Shakuntalam Apartment and CCTV Footage, copy of which shall be obtained from the FSL concerned. One copy of all the above be supplied to the complainant at her own cost. Application disposed off accordingly...”

[bold portion as in Original]



### Order dated 25.05.2018

*“The Court can also notice that despite various discrepancies pointed out from time to time, the successive investigative officers are taking the same line of investigation as their predecessors and showing exceptional stubbornness and resistance to even the possibility of any alternative view. It is clarified here that the Court does not want to substitute its view for the view taken by the Investigating Officer but can clearly notice that investigation is being conducted keeping in mind a particular view only. In these circumstances, it would be expedient to direct the Investigating Officer to collect the academic and professional record of the deceased so that these can be taken into consideration while forming an opinion as to whether the death of the deceased was a murder or suicide or something else. Let such record as mentioned in the application be collected accordingly within a week from today as the Ld. counsel for the complainant has expressed apprehension that the record may be weeded out due to lapse of time.”*

[emphasis supplied]

### Order dated 07.07.2018

“ In the status report filed today, it has been submitted that a 'letter' has been written to the concerned authorities at ITC Grand Bharat but despite 'several telephonic reminders', the record was not provided.

Likewise, it is mentioned in the status report that the details of the landline phone installed at the residence of Ranjeet Tiwari and that installed in his office 'were sought vide email'. Apparently, the record for the period of 10.05.2017 to 10.05.2018 was 'requested'. However, the record was provided only from 18.01.2018. Thus, another email was purportedly sent but the same records were provided. No report has been provided by the MTNL regarding landline installed at the residence. Likewise, records of phone number/mobile numbers, if any, in the name of Ranjeet Tiwari, Pratima Tiwari and Megha Tiwari have been sought via email. Airtel and Telanor have provided the report as negative. Emails have been sent again to other service providers.

Never has this court come across such utter helplessness being exhibited by an investigating agency in obtaining records and that too when directions have been given by the court to this effect during the course of monitoring investigation. Upon being asked as to why the SIT did not resort to measures provided U/s 91 Cr. P. C., the Member of the SIT present today submits that the same should have been resorted to. He further submits that 'if the court wants, they can take these measures now'. The Court observes here that had the SIT resorted to such statutory measures, then they could have taken action against the concerned persons for noncompliance of duly promulgated order of a public servant issued during the course of their duties. Then, perhaps, the SIT





would not have to express such utter helplessness in failure to procure the record required for the purpose of investigation. Sadly, this has not been done.

Further, it is noticed that out of the persons examined during the course of investigation since the last date, only two persons who were acquainted with the deceased Arnav Duggal as well as Megha Tiwari have been examined. Very interestingly, both these persons were friends of Megha Tiwari and were introduced by her to the deceased. The Court cannot help but notice that both these persons have levelled allegations about substance abuse by the deceased. Upon being asked by the Court, the member of the SIT present today submits that apparently no such substance abuse or habit was apparent or found in the post mortem result of the deceased. Very interestingly, these persons have also given statements about the deceased being very happy and very helpful to them.

It is also very interesting that the only person chosen by the SIT to examine in detail is one Jayant Lamba about whom Ms. Megha Tiwari had stated in her statement recorded in the earlier inquest proceedings that the deceased had picked up a fight with her over her talking to the said Jayant Lamba, her old friend. Interestingly, this very person who admittedly was not having cordial rapport with the deceased has been examined to shed light on the character and habits of the deceased. Also interestingly, the driving license and debit card of the deceased were lying with this very person at the time of his death. The complainant has alleged that the debit card of the deceased was swiped on the date of his death. Sadly, the SIT Member, present today, has expressed ignorance about this fact. Thus, it is apparent that no investigation was conducted as to where and by whom, such debit card transaction was made with the card of the deceased on the date of his death.

The Court has also put various questions to the member of the SIT present today regarding the status report filed. For instance, the Court inquired from the SIT member that if the driving license of the deceased was with the aforesaid person, then how was it scanned at the Raddison Hotel. The SIT member is quick to point out that the image of the driving license from the phone of the deceased was scanned. However, when asked as to whether this scan was available and collected, during the course of investigation, the SIT Member states that the records pertaining to the same have been deleted by the hotel. Upon being asked as to whether the police has issued any guidelines for physical maintenance of such record by hotels, the SIT member submits that such record 'should have been maintained physically'.

The complainant being a non legal person, has pointed that the IO should obtain certificates U/s 65 B of the Indian Evidence Act for all the electronic records, procured during investigation. However, sadly, when the Court has put this query to the SIT member, he submits that certificate U/s 65 B of the Indian Evidence Act has not been obtained for the call detail records collected. It is hoped that they shall be obtained now.

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Signature Not Verified

Digitally Signed

By: YASHRAJ

Signing Date: 27.11.2018 (CRL) 1695/2018

16:13:58



*The complainant has also informed the Court that despite directions dated 28.04.2018, the CCTV footage of Shakuntalam Apartments has not been provided to the complainant nor has it been submitted in the Court. The SIT member has pointed out that a letter dated 22.03.2018 has been sent to the FSL for obtaining such copy. However, perusal of this letter from the police file shows that only the opinion of the FSL has been sought vide this letter and there is no request for obtaining copies of the same as directed by the Court. It is also pointed out by the complainant that the Court was given an impression that the DVR of the said CCTV footage has been deposited in the FSL and therefore, a copy of the same has to be procured from the FSL. Whereas, as per the complainant she was offered by the previous investigating officer to view the CCTV footage at Crime Branch Office, Dwarka. Upon being asked, the SIT member has admitted that one copy of the CCTV footage is still lying with them. Let copies of the footage be produced from the copy lying with the SIT and be provided to the Complainant positively before the next date. One copy be submitted in the court on the next date.*

*The Court is constrained to note here that when any query which supports the line of investigation is put to the SIT member, he is more than eager to answer. However, when any query questioning the line of investigation is put to him, he pleads ignorance and submits that the IO Inspector Kuldeep Singh is on leave today (as well).*

*One wonders, what is the purpose of constituting an SIT when members of the SIT are not even acquainted with the investigation being conducted.*

*Thus, this court is constrained to direct that on the next date of hearing, the DCP Crime alongwith all members of the SIT shall be present in person before the Court alongwith Status Report and before that they shall ensure compliance of the earlier directions of the Court through statutory measures available to them.*

*Be put up for further proceedings on 15.09.2018.*

*A copy of the order be sent to DCP Crime through his superior for his information."*

[emphasis supplied]

31. The aforesaid extraction of orders has been considered by this Court not for the purpose of overawing itself but for the purpose of testing the argument of the learned ASC that the investigation in the present case was done three times over by different authorities of different ranks and were insulated from any external influence or was not shoddy/negligent. In fact that is a clear pointer towards the failure which is writ large on the manner in which investigations





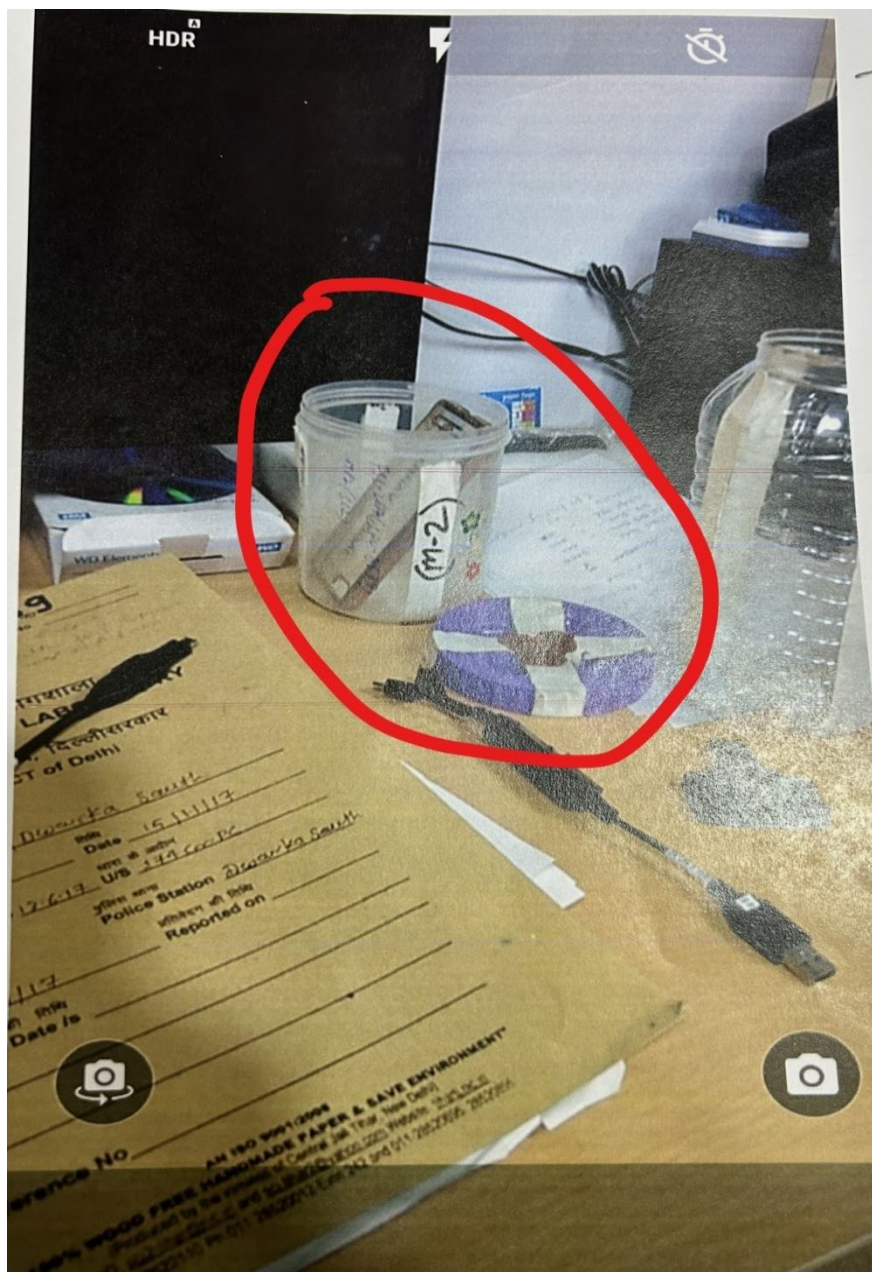
commenced and concluded. Candidly, the anguish of the learned CMM is surely not the consideration which this Court tends to rely on to reach a conclusion. It is only for the purpose of demonstrating that an independent judicial trained mind which was monitoring the investigations could pierce the veil and pass necessary directions for proper and adequate investigations which too were not followed diligently.

32. The point wise arguments and counter arguments and their analysis thereof are as follows:-

a) The first consideration for this Court is the discrepancy brought out by the petitioner in respect of the mobile phone of MT which was purportedly seized on 13.06.2017 at or about 10:30 pm. The phone after seizure was reportedly sealed and kept in the custody of *Malkhana* on and from the night of 13.06.2017. From the records, it is revealed that the same was seized while in switched “ON” condition. However, what is intriguing is the fact that the phone was switched off and switched on a number of times between 13.06.2017 to 23.06.2017 while it was in the *Malkhana* in the sealed plastic box. Moreover, it does not stand to reason or logic as to how the battery of the said phone lasted for a week. Since the prosecution was unable to satisfy this Court as how this could happen, this Court requested Dr. Jagjeet Singh, Senior Scientific Officer, FSL, New Delhi to submit a Report in that regard. Dr. Singh *vide* his Report dated 16.04.2025 clearly pointed out the possibility of either manual interference or of the power button being stuck leading to automatic switching on and off multiple times, of the mobile ‘MP3’ belonging to MT. He also enclosed relevant documents and stated in his Report that the deletions which may have occurred were retrieved and could be relatable to



the powering events attached as Annexure VIII to the said Report. The Report clearly does not rule out manual interference with the phone so seized. The fact that the messages were relevant or not or whether they were incriminating or not is surely not the issue. Rather, the issue which needs consideration is as to how and why the phone, which was duly sealed by an investigating agency and kept with officials of the *Malkhana*, could at all be either switched on or switched off. The only logical conclusion appears to be that someone indeed tampered with the seal under which the mobile phone of MT was kept, opened the box, took out the phone and manually switched on and then switched off. The purpose may not be relevant at this point of time but the act definitely is. Keeping in view the fact that today's software technology and the tools available in the market are extremely advanced, one cannot rule out a remote access to the contents of the mobile phone of MT. This Court does not have the wherewithal to analyze or evaluate how such toolkits or advanced software are utilized and may be used for some oblique purpose. In fact, the said allegations have not even been enquired into which should have been done by the investigating agency itself or the Crime Branch or the SIT, all of whom failed. In the opinion of this Court, this is an absolutely relevant consideration which has not been answered satisfactorily at all by the prosecution. The opinion that the power button being stuck, on account whereof, the mobile phone switched on and off by itself, is absurd to say the least. Being unpalatable, this Court is unable to accept the said opinion. The box in which the seized phone of MT was allegedly kept sealed is captured in the photograph and encircled in red, herein below:-



After noticing the above photograph, it is difficult to fathom as to how the said phone could switch on and switch off itself or believe the theory that the power button was stuck leading to the phone switching itself on and off.



b) While hearing arguments and perusing the Trial Court records, this Court also perused not only the photographs taken by the Crime Team and the FSL Team but also inquired into the size of the bed, distance between the mattress of the bed to the fan and the height and weight of the deceased as also of MT. It was revealed that the distance between the top of the bed and the fan was 6 feet 4 inches while the deceased was 6 feet. The length of the rope/ligature is stated to be 4 feet 1 inch. According to the FSL Team, no chance fingerprint was found on the blades of the fan or anywhere on the fan. It may be noted that the deceased being 6 feet, the rod of the fan would be easily accessible to him, and going by the theory of suicide, the possibility of the deceased having touched the fan to tie the ligature cloth cannot be ruled out. Yet, the FSL Team claims that there were no chance fingerprints on any portion of the fan. Going by the description of the prosecution, the deceased would have weighed around 80 kilograms and it is probable and plausible that when a person of such weight takes a plunge, the knot holding the ligature at the end of the fan would only become tighter. However, the record reveals that MT, as per her statement, used either a knife or a scissors to cut the ligature cloth to bring the body of the deceased down. On a pertinent question by the Court, the prosecution was unable to answer as to who removed the end of the ligature cloth which was tied to the fan or how the said ligature was removed from the fan and found on the bed. No explanation or statement of MT or any other witnesses like MM, friend of MT or the father of MT, who had admittedly reached the place of occurrence before the police authorities, was noted or called for. It is not only intriguing but also suspicious to say the least as to why the IO did not consider this as a relevant aspect. How the other end of the



ligature, tied to the fan, was removed and by whom itself may raise grave suspicion. This gathers greater significance since admittedly, by the time the first police official reached the scene of crime, not only was the body of the deceased already brought down but also the said portion of the ligature cloth was found on the bed. In other words, no police official had witnessed the body of the deceased hanging from the fan or the other end of the ligature tied to the fan.

c) In addition to the above, though photographs reveal that apart from the ligature, there was a phone, scissors and knife on the bed yet apart from the phone and the scissors, the knife was not seized. It is more intriguing to note that the said scissors, despite having been seized, were never sent to FSL for examining any chance fingerprints. Though, no injuries appear to have been found on the body of the deceased yet at that stage, keeping in view the suspicious circumstances surrounding the death of the deceased, ordinarily, the police authorities would have not only seized the knife but also sent both, the scissors and the knife, to the FSL for examination. This basic investigative step was not undertaken for reasons unknown.

d) It is perplexing to note that despite the fact that the mobile phones of the deceased and MT were seized on 13.06.2017, the same were not sent to the FSL for retrieval of data and scientific analysis by the local police authorities immediately. In fact, after the matter was transferred, the Crime Branch also took another three months to send the phones to FSL. The investigating agency did not make any effort to procure the clones of the mobile phones of the deceased or of MT. It was only after an application was filed by the petitioner, the learned CMM directed, *vide* orders dated 22.12.2018,





02.02.2019 and 08.03.2019, the investigating agency to procure and supply the FSL report and clone copy of the phones of the deceased and that of MT. It was only after the clone copy was furnished that the deletion of messages and receipt of incoming calls between 13.06.2017 and 23.06.2017, while MT's phone was in the *Malkhana*, was revealed. This Court has already dealt with the issue of plausible tampering of mobile phones of MT while in the custody of Malkhana in the preceding paragraphs. The above aspect is being noted only for the purpose of highlighting the lackadaisical manner in which the investigating agency conducted the investigation.

e) Another aspect which appears to have been brushed aside and not considered as relevant by the prosecution is the undisputed fact that the mobile phone of MT was not seized by the police authorities immediately as should have been. Though there is no time entered as to when her mobile phone was seized, from the circumstances gathered, it appears that the same was seized around 10:30 PM on 13.06.2017. It is of relevance to note that the police had arrived at the scene around 5:30 PM and despite the local police having been informed by the PCR, coupled with the fact that it was known to the police authorities that apart from the deceased, it was only MT who was present in the flat during the entire period, no explanation has been offered as to why the said phone was not seized. This lapse occurred despite the fact that there was no clarity, atleast at that point in time, as to whether the death occurred under any suspicious circumstance or not. In fact, admittedly, the police had initiated proceedings under Section 174 Cr.P.C. which itself would beg the question as to the suspicious nature of death. From the analysis of the CDR records as also the FSL Report regarding the mobile phone of MT, it is undeniable that a





number of phone calls, whatsapp messages, whatsapp groups and certain material on facebook was indeed deleted. The prosecution has neither given any explanation nor tendered any sufficient reason as to, (i) why the mobile phone of MT was not seized immediately and; (ii) what was the importance and relevance of the deleted messages or the deleted phone call records etc. In that view of the matter, the behaviour of the police authorities in not seizing the phone in time thereby permitting the only other person in the room to carry out deletions, is, to say the least, peculiar and not in accordance with the process of investigation. That too in such a serious and grave case of death of a young boy.

Curiously, even before the entire place of incident was thoroughly examined by the Crime Team and the FSL Team, for some unknown reason, MT and MM were kept locked in a separate room inside the house and were taken out around 10:00 PM as per the statement of MM. It appears that such deletions etc., noted above were done during the said period.

f) Yet another issue flagged by the petitioner is in respect of the photographs which were taken but not placed on the police file or the Court record by the investigating agency. The petitioner while relying on the statement of Head Constable Banwari Lal, who was the photographer with the Crime Team, submitted that in his statement dated 08.06.2018, there is no mention of how many photographs he actually took nor is it clear as to when, where and how many photographs were handed over to the IO i.e. no seizure memo was recorded nor any entry was made in the Case Diary. The Crime Branch stated that it received only 10 photographs taken by HC Banwari Lal. It is shocking to note that on 10.02.2018, the petitioner received certain photographs of the



crime scene anonymously. The same were filed before the Court on 17.02.2018 which was noted by the learned CMM. However, the Crime Branch in its Status Report dated 17.02.2018 responded that these photographs were not part of what was handed over to them. Further, the learned CMM noted various discrepancies and lapses on the part of the IO in bringing on record photographs of the Post Mortem in the order dated 28.04.2018. In fact, the photographs taken by the police were officially brought on record only pursuant to the orders of the learned CMM on 03.11.2018 and 22.12.2018. The callous and lackadaisical nature of the investigating agency is also writ large while noting that it was the petitioner who was constrained to move an application on 22.12.2018 seeking a direction that the negatives of the 21 photographs taken by the Crime Team be also brought on record. Despite orders dated 22.12.2018 and 02.02.2019, the negatives were not brought on record by the investigating agency. It was only when the petitioner again moved an application on 22.02.2019 that on 08.03.2019, the then IO Richpal Singh brought on record negatives of those 10 photographs, which were anonymously supplied to the petitioner. It is disturbing to note that these were the same photographs regarding which the investigating agency earlier feigned ignorance.

g) Another crucial aspect needing consideration of this Court is the total apathy in respect of seizure of the fan from which the deceased is alleged to have committed suicide by hanging. Learned ASC had very simply brushed aside the said aspect by stating that in cases of suicide, ordinarily, the fan is not seized. However, no procedure or SOP or any Standing Order supporting the said contention was placed before this Court. In ordinary prudence, it is



expected that any and every object, which is material to prove or establish a particular relevant fact, would be a material object necessarily requiring seizure. In the present case, it was stated by the prosecution that mere photographs of the said fan would suffice. This submission, in the absence of any documentary material to support the non-seizure of such material object, to say the least, is unpalatable. What is more surprising is that not only was the fan not seized, the father of MT after a few months sold the fan to a scrap dealer. According to this Court, this was one of the most glaring lapses which has been tried to be covered up with an unpersuasive contention. Particularly in view of the fact that the father of MT, in the statement dated 30.08.2017, stated that the blades of the fan were bent compelling him to sell the fan, while the photographs did not show that any blade of the fan was bent. In fact, as per the statement of the father of MT recorded on 03.04.2018, the blades were straight when he removed it from the ceiling. Whether the fan's blades were straight or bent may also be a crucial aspect while conducting investigation in this case which unfortunately was not taken into consideration by the investigating agency.

In the aforesaid context, the observations made by the learned CMM in the order dated 17.02.2018 would be of great relevance. The same are extracted hereunder:-

*“ During the course of arguments, various disturbing facts have been brought to the notice of the court. Perusal of the statement of Mr. Ranjeet Tiwari shows that he has told the IO that the fan from which the deceased hung himself had bent and was sold in scrap. Whereas, the photographs filed by the complainant today show that the fan was present in the room at the time of the incident and even thereafter and was completely intact. There were no signs of the fan being bent. It is relevant to mention here that a careful perusal of all the photographs clearly show that the fan of which the photographs have been filed*



*today is located in the same room where the deceased died. This is apparent from the furniture and the bed sheet which are visible in other photographs. Interestingly, no photograph of the fan is located in the police file. It is also very relevant to mention here that not only is the fan not bent but it is completely covered in dust and even some cobwebs are seen hanging from the fan. It is inconceivable that if a person weighing about 80 kgs would have hung himself from the fan using a cloth then the dust settled on the fan and even the fragile cobweb would remain completely undisturbed.*

xxx

xxx

xxx

*Apart from the aforesaid facts and circumstances brought to the notice of the Court by the Ld. counsel for the complainant, the court can't help but notice that from the day of the incident itself the police seems to have presumed that this is a case of suicide. Despite the deceased being found dead in such mysterious circumstances, the police has refused to register an FIR despite serious allegations being leveled by the parents of the deceased. It seems that a deliberate attempt is being made right from the beginning to take the probe in this matter in the direction of a suicide. This is apparent from the fact that although no police official saw the deceased hanging from the fan, the police seems to have blindly accepted the version of Ms. Megha Tiwari. It is for this reason it seems that despite malafide being alleged by the complainant and her husband, proceedings U/s 174 Cr. PC were initiated rather than registration of FIR to further strengthen the story of suicide. Even the polygraph test appears to have been conducted in a rudimentary manner, seemingly as a formality. Moreover, the absence of crucial photographs from police file show that the probe is not being conducted in an impartial manner as the theory of the police stands blown away by merely looking at the condition of the fan from which the deceased allegedly hung himself and which was allegedly bent but surprisingly appears completely intact and dusty in the photographs apparently taken on the day of incident filed by the complainant but interestingly, which is not seen in any of the photographs in the police file.*

*Another photograph in which back of the deceased is seen shows redness on the back. This photograph also does not appear in the police file."*

*[emphasis supplied]*

In the same order, observing the manner in which the investigations were being conducted, the learned CMM directed transfer of the investigation from the then IO to be handed over to some responsible officer. While such directions were passed, the learned CMM also required the then IO to explain as to why appropriate action be not taken against him. The learned CMM also



marked the copy to the Commissioner of Police with direction that an inquiry be conducted into alleged lapses of the police officials and to take strict action if any deliberate attempt to scuttle the probe is found.

h) With the assistance of the learned senior counsel for the petitioner and Mr. Amol Sinha, learned ASC, this Court has meticulously examined the CDRs of the deceased, MT, RT, MM, QZ, HK etc. From a careful examination of the CDRs of MT, the deceased and RT- father of MT, it appears that the analysis and investigations of the required degree was not conducted by the IO. The version of prosecution is that MT woke up on a landline telephonic call from her father, RT around 4:30 PM when she discovered the deceased hanging from the ceiling fan in the adjacent room where the said telephone was kept. Thereafter, as per her statement, MT told the father that she would call back. Then, MT actually called QZ once at 4:26 PM which was not answered, whereafter there is an incoming call from a landline number described as 'Nitika Office' which was attended to by MT for 21 seconds. Thereafter, MT again called QZ twice which went unanswered, subsequent where to she called up her cousin, one Hitesh (Hetish) and spoke to him for about 16 seconds. Thereafter, she received a call from her friend, HK and spoke for 1 minute 15 seconds; then QZ called MT and they spoke for 1 minute and 12 seconds. It was only thereafter that MT had called back her father-RT and spoke to him for 1 minute 18 seconds. Subsequently, MT again called QZ and spoke to her for 4 minutes 22 seconds. She then called her father which went unanswered. RT called back MT at 4:43 PM and they spoke for 1 minute 25 seconds. MT called QZ which remained unanswered and thereafter, QZ called back and they spoke for 3 minutes 26 seconds. Then MT



called her friend MM at 4:53 PM and spoke for 2 minutes and 46 seconds. Then MT received a call from one B. Tiwary (who is stated to be her grandfather) and spoke for 10 minutes 14 seconds. MT called MM again and spoke for 23 seconds. Then, there are 4 incoming calls from ITC Maurya, Delhi where MT was employed at that time.

In the interregnum, as per the prosecution story, RT left his office after attending the call of MT at 4:35 PM and called up the security guard of the Shakuntalam Apartments and allegedly asked him to visit his flat to check the aspect of suicide by a boy. Purportedly, the security guard refused to leave his place of posting and took advise from the Office bearer (Secretary) before calling up the police at 5:25 PM. These are all available in the statements of the witnesses. What is intriguing and baffling in all this is that neither MT nor RT called up either the Ambulance or the Police. This Court may still give benefit of doubt to MT regarding the call to the police keeping in view the emotive state at that point of time, but it is peculiar that RT, who is stated to be a retired Naval Officer, did not make any call to an Ambulance or the Police authorities. All this while, RT kept in touch with his daughter MT and MM and the security guard but did not find a good reason to inform the police.

So far as the claim of RT that he called up MT on the landline is concerned, no records were available with the service provider MTNL to substantiate or corroborate the same. If RT called from his mobile then his CDR would have disclosed the same and if it was from office landline, the IO ought to have found out the CDRs of the office landline number. None of this was done. The question is not that there could be a possibility of suspicion on





RT, but that anyone and everyone in the zone of consideration is eliminated from any incriminating circumstances which may be levelled against them.

i) There is no reason provided as to why the IO did not examine Hitesh (Hetish), cousin of MT who was first one to respond to MT's call or examine Mr. B. Tiwary with whom MT spoke for 10 minutes 14 seconds at 4:56 PM on 13.06.2017. This Court is considering these issues threadbare only to cull out the circumstances which stare in the face and creates a doubt as to the genuineness and authenticity of the IO while investigating the entire case at the first instance. This instance noted in the present paragraph cannot be considered in isolation but in continuation of the facts regarding calls made or received by MT. Read so, in the opinion of this Court, the IO has not discharged his duties properly. The lapses lend credence to the submission of the petitioner that the IO and the subsequent investigating agencies did predicate their investigating skills and actions primarily based on theory of suicide alone. Even the learned ASC stated that once the Post Mortem Report itself is suggestive of death by Asphyxia caused by antemortem hanging which effectively ruled out homicide, the theory of suicide is in consonance with the facts and circumstances occurring on 13.06.2017. What is overlooked by learned ASC is the fact that the Post Mortem Report was obtained only after four days on 17.06.2017, during which period, no effective investigating steps or interrogation of persons within the suspicion zone were ever undertaken with due diligence. What is more surprising is that the prosecution asserts that it had initiated proceedings under section 174, Cr.P.C, 1973 which is conducted in cases of suspicious death or death due to unknown causes or reasons. If that be so, atleast till the Post Mortem Report was obtained, the



police authorities had no way to ascertain whether it was a death by suicide or homicide. The possibility of invocation of Section 306, IPC for the abetment of suicide was also, surprisingly, not considered or looked into by the prosecution. The submission of learned ASC that Section 306 IPC was not invoked since neither any suicide note was found nor the statements of friends of the deceased or MT created any grave suspicion in that regard, is fallacious. This is for the reason that no FIR was ever registered till an order dated 17.02.2018 was passed by the learned CMM upon the application under Section 156(3), Cr.P.C. was filed by the petitioner. Even after the direction by the learned CMM, the FIR was registered under only Section 302 IPC, ignoring Section 306 IPC. Though in the present case, the “cause of death”, in all probability, may be ascertained as Asphyxia as a result of antemortem hanging but what is glaringly lacking is the “reason” for death by suicide. The prosecution has utterly failed to inform this Court or even the Trial Court of any such reason, particularly when there is no material placed on record to indicate that the deceased was under depression or having suicidal tendencies.

It is not as if this Court is goading or coaxing the prosecution to consider the ingredients of offence under Section 306 IPC, but it is only a pointer as to how the investigations or in other words, the lackadaisical nature in which the investigations have been carried out. It is the bounden duty of the investigating agencies to, at the first instance, rule out or eliminate any offence which may be attracted in given facts and circumstances of a particular case. In the present case, even if one may presume that an offence under Section 302 IPC, in all probability, may not find a foundation but whether the purported suicide is voluntary or there could be an element of abetment, has



not at all been looked into by the prosecution. Rather, that aspect was completely ignored, willfully or otherwise.

j) The smaller issues like non-seizure of the wine bottle may not appear to be crucial, however, looking into the overall aspect, it may have turned out to be a crucial fact which ought to have been considered. The reasons propounded for not having seized the wine bottle were two – (i) that it was not found in the same room where the deceased is alleged to have committed suicide and; (ii) that neither the Post Mortem Report nor the Viscera Examination Report indicated any intake of drugs, psychotropic substances or poisons. This argument, to say the least, in fact, displays and betrays the lack of professionalism and investigation methodology. The Post Mortem Report was received on 17.06.2017 meaning thereby that as on 13.06.2017, the police authorities had no clue as to what caused the death of the deceased. If that is so and were this Court to believe the prosecution's version, based on examination of the CCTV footage where the deceased was seen climbing up the stairs to reach the house of MT, holding in his hand a wine bottle and some other box, it is not only intriguing but shocking to see the manner in which the investigation had proceeded, but more confounding to hear such submissions. Had the IO been prudent, the CCTV footage ought to have been examined and scrutinised on 13.06.2017 or atleast the very next day. That major lapse, willful or otherwise, appears to have led to non-seizure of the wine bottle. Thus, keeping in view the aforesaid, it is difficult to say with certainty whether the presence of the wine bottle at the place of incident is not a relevant circumstance.



k) Another aspect raised by Mr. Aggarwal, learned senior counsel was with respect to the ligature mark on the neck merging with the hairline going to the back of the neck which, according to him, does not conform to the medical toxicology and would therefore raise a suspicion on the cause of death. He contended that in all probability, the death of the deceased may not be by suicide as theorized by the prosecution. Just so that the gravity is understood well, it may be apposite to extract the antemortem injuries noted in the post mortem report which is extracted hereunder:

*“Ante mortem injuries*

*1. One ligature mark, faint brownish in color, irregular, incomplete, parchmentised at places and having a maximum width of 6.0 cm at front of neck, 5 cm on right lateral side of neck and 4.5 cm on left lateral aspect of neck, is present over the neck obliquely, going upward and backward, in both directions over the neck. The mark is merging with the hairline at the back of neck. The mark is situated 6 cm below the tip of right mastoid process, 8 cm below the chin, 7 cm above the suprasternal notch and 5 cm below tip of left mastoid process. The neck circumference is 34 cm. One abrasion reddish in color, measuring 2.5 cm X 0.5 cm, is present 8.5cm below the chin adjoining the upper margin of ligature mark in the midline. On dissection of neck, the underlying subcutaneous tissue is pale and glistening and no extravasation of blood is seen in the carotid sheath and surrounding neck structures. The thyroid, hyoid bone and cricoid cartilages are intact...”*

In addition to the above, this Court notes that the learned CMM, in the order dated 17.02.2018, had not only noted the said submission but also appears to have agreed with the same. In these circumstances, it would be necessary to consider the said observations:-

*“ The ligature mark pointed out by the Ld. counsel for the complainant, Mr. Dey is also of much relevance as it is pointed out that the same merges with the hairline going to the back of the neck. The Ld. counsel for the complainant Mr. Dey has rightly argued that as per settled norms of medical jurisprudence, in case of hanging, the ligature mark is mostly present on the front or at the most,*



the side of the neck. Whereas, it is in cases of strangulation that ligature marks are normally present even on the backside of the neck.”

[emphasis supplied]

It appears that even after the said observations were recorded in writing by the learned CMM, no effective steps to investigate or eliminate any such possibility were taken by the investigating agencies. Standalone, such circumstance by itself may not compel this Court to make any observation as it would tantamount to treading into territory of appreciation of evidence. However, despite such an observation on a grave issue being flagged by a Court of law, it is intriguing to note that the same failed to propel the prosecution to investigate and eliminate such possibility. This issue too, when linked to the chain of circumstances as noted above, is a telling aspect on the nature of investigations conducted by the prosecution.

1) Learned senior counsel for the petitioner relied upon the observations recorded by the learned CMM in the order dated 17.02.2018 with respect to the Polygraph Test conducted on MT. He emphasized that the learned CMM was constrained to observe that the said test appears to have been conducted in a rudimentary manner, seemingly as a formality. On a query by this Court on this aspect, learned ASC clarified that there are certain Standard Operating Procedures, which are followed by the agency which conducts the Polygraph Test. He also urged that there are constraints which have to be appreciated by the authorities conducting those tests and on that basis, he stated that the form of questions may not necessarily be decisive to conclude whether it was rudimentary or within the SOP. In any case, he asserted that the said test was conducted by an independent agency, and more importantly, none of the



police authorities including the IO were present at the time of such examination to doubt the authenticity of the test conducted. So far as this aspect is concerned, the authorities which conducted the test are experts in that line and it may not be appropriate for this Court exercising jurisdiction under Article 226 of the Constitution to make any observations thereon. Since the aforesaid circumstances noted in the preceding paragraphs are impelling this Court for investigations by a specialized agency, it may be more appropriate for that agency to consider this aspect.

m) The argument raised by the learned counsel for the petitioner on 15.11.2025 regarding a purported photograph having been taken on 15.06.2017 is concerned, the brown file appearing in the said photograph contained the date of 15.11.2017. In such circumstances, the argument of apparent manipulation or tampering on the basis of this photograph, appears to be unfounded.

33. Pondering over the possibility of what the petitioner could undertake as a redressal to the grievances raised in the present petition, the filing of a protest petition as a possible procedure of amelioration of grievances appeared to be an appropriate alternative. After having given deep, anxious and conscious thought to it, this Court is unable to persuade itself to pass such directions. This is for the reason that such procedure may not ultimately prove to be of any benefit inasmuch as even if such a protest petition is filed, the right, authority or jurisdiction to transfer the investigation to CBI is not statutorily available to the learned CMM. At best, learned CMM could, in law, direct only further investigation by the local police or the Crime Branch or SIT etc. In case the learned CMM would come to a conclusion similar to the one this Court has





reached, such exercise of power or direction post consideration of the protest petition would be otiose and nugatory. It is also for these compelling circumstances and in order to reach the truth finally, this Court is unable to persuade itself to direct the alternate procedure of filing of the protest petition.

34. Taking note of the aforesaid crucial and material lacunae observed in the investigations carried out not only by the IO but also the Crime Branch and the SIT which appear to have merely parroted the same version, this Court is constrained to observe that the investigations lack *bona fide* and appear to have been conducted myopically, that too, predicated only on the theory of suicide as stated by MT without applying its investigative or analytical and scientific mind to the circumstances noted in the preceding paragraphs.

35. *Ab supra*, the said exceptional and compelling circumstances are propelling this Court to exercise the jurisdiction vested in it under Article 226 of the Constitution of India in order to do complete justice. This measure would, in the considered opinion of this Court, align itself with the ratio laid down in the judgements noted above.

36. Accordingly, this Court passes a direction to the CBI to take up fresh investigations into the circumstances under which the death of deceased occurred and take necessary consequential steps in accordance with law. The police authorities including any other agency are directed to submit the entire records and the evidence gathered till date to the CBI within 4 weeks from date. The CBI, apart from conducting the aforesaid investigations, would also require to conduct an enquiry into the lapses, if any, by the officers of the Delhi Police conducting the investigations, and if any deliberate act for such omission or commission is revealed, a report be generated and furnished to the learned CMM



as also the Commissioner of Police, who may take appropriate disciplinary action, if so required. Needless to state that the police authorities and other investigating agencies shall extend all cooperation to the CBI in respect of any requirement relating to this case. The CBI is directed to complete the investigations with expedition.

37. At times, in order to achieve truth, the lapse of time may not interdict. It has been held in a catena of judgements that stage of the trial is neither a bar nor an impediment for exercising the constitutional power, which is meant to ensure a fair and just investigation. Further, the investigations can be transferred even after filing of the charge sheet or the Closure Report. (See *Dharampal vs. State of Haryana and Ors.: (2016) 4 SCC 160*, *Pooja Pal vs. Union of India: (2016) 3 SCC 135* and *Neetu Kumar Nagaich vs. State of Rajasthan & Ors.: (2020) 16 SCC 777*).

38. At this stage, it is also pertinent to note that there are various cases of crime where the investigations overcame the challenges and finally fructified after decades, due to advancements in forensic technology allowing re-testing of material evidence. [as in the cases of USA based serial killers - Golden State Killer (Joseph James DeAngelo) and Green River Killer (Gary Ridgway)].

DeAngelo killed at least 13 people and raped dozens more in the 1970s and 1980s. In April 2018, nearly four decades after his last known crimes, police armed with DNA evidence arrested him and he was sentenced to life in prison without parole.

In 1982, several bodies were found on the riverbank of Green River, which began one of the longest and largest serial murder investigations in the history of the United States of America. Eventually, the deaths of at least 48



women were linked to the Green River killer. The investigations continued for decades and over time, the combination of advancing technology, science, and determined investigative work advanced the case until Gary Ridgway was arrested in the year 2001.

39. Thus, it is never too late to search for truth.

40. In view of the above directions, the writ petition alongwith pending applications, if any, stands disposed of.

**TUSHAR RAO GEDELA  
(JUDGE)**

**NOVEMBER 27, 2025**